

These general terms and conditions of sale ("GTCS") are the only terms that apply to any purchase order ("PO" together with the GTCS, the "Agreement") placed by an entity ("Buyer") to MERSEN ("Seller") for the provision of Seller's products, equipment, systems, and parts (individually and collectively, "Goods") and/or services, such as repair services, field services, and engineering services ("Service(s)"). Buyer and Seller are referred to herein individually as "Party" and collectively as "Parties".

1. OTHER TERMS AND CONDITIONS

1.1 ANY ADDITIONAL OR CONTRADICTORY TERMS OR CONDITIONS OF BUYER SHALL NOT APPLY, UNLESS EXPRESSLY AGREED IN WRITING BY BOTH PARTIES. SELLER'S ACCEPTANCE OF A PO SHALL NOT BE DEEMED AS AN ACCEPTANCE OF ANY ADDITIONAL OR CONTRADICTORY TERMS OR CONDITIONS OF BUYER.

1.2 PRIOR COURSES OF DEALING OR USAGE OF TRADE SHALL NOT CHANGE, ADD TO OR DEDUCT FROM THE PROVISIONS STATED HEREIN.

2. ORDER AND ACCEPTANCE

2.1 BUYER SHALL PLACE A PO BY ANY AGREED WRITTEN MEANS. IN ADDITION TO ANY MANDATORY INFORMATION, BUYER SHALL INDICATE IN THE PO (I) SELLER'S REFERENCE FOR THE GOODS AND/OR THE SERVICES, (II) THE GOODS' QUANTITY, DELIVERY DATE, INCOTERMS® (ICC 2020 EDITION) (THE "INCOTERMS"), AND (III) PRICE AND PAYMENT TERMS.

2.2 FOR ANY PO OF LESS THAN USD 200, SELLER RESERVES THE RIGHT TO EITHER REJECT SUCH PO OR CHARGE FOR SUPPLEMENTARY COSTS (E.G., LOGISTIC COSTS, TRANSPORTATION COSTS).

2.3 Seller shall be bound by a PO only upon occurrence of either (i) Seller's express written acceptance of the PO, which shall be made in a timely manner or (ii) upon delivery of the Goods and/or the Services by Seller.

2.4 The cancellation before shipment of any PO which has been confirmed by Seller shall be subject to Seller's prior written approval. A PO shall also be cancelled by Seller by right if such PO is in violation of the provisions set in Section 11.

3. SHIPMENT, RISK OF LOSS, AND DELIVERY

3.1 Seller shall use reasonable efforts to meet any performance dates to render services specified in the PO and any such dates shall be estimates.

3.2 Unless otherwise mutually agreed by the Parties, the Goods shall be delivered or made available to Buyer according to the EXW INCOTERMS ® (ICC 2020 Edition) and at the agreed delivery place. Risk of loss will pass to Buyer according to the applicable INCOTERMS®.

3.3 Delivery of quantities that differ from the quantity specified on the PO shall not relieve Buyer from its obligation to accept delivery of the Goods as well as the balance of the PO.

3.4 Seller may from time to time change the Services without consent of Buyer provided such changes do not materially affect the nature or scope of the Services, or the fees or performance dates set forth in the PO.

3.5 Changes in delivery schedules, special shipping or packaging, handling conditions requested by Buyer are subject to price adjustment. If Buyer requests that delivery be postponed or if the delivery and/or shipment is delayed or become impossible due to reason not attributable to Seller, the Goods may be stored at Buyer's expense and risk.

3.6 SELLER SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR PENALTY FOR DELAY IN SHIPMENT, DELIVERY, OR FOR FAILURE TO GIVE NOTICE OF ANY DELAY.

4. INSPECTION

4.1 Buyer shall within five (5) days of receipt (i) carefully inspect the Goods against any non-conformity to the PO such as erroneous Goods, quantity (if applicable), or apparent defects, (ii) notify Seller of any apparent damage or loss in a timely manner.

4.2 Buyer's inspection and/or acceptance tests shall not exceed the inspection and/or test procedures customary in the industry for the furnished Goods and shall be carried on at Buyer's expense.

4.3 If Buyer wants to return the Goods, Buyer shall request a return material authorization and return the Goods in the original shipping packaging and all packing materials.

5. PRICE, PAYMENT, AND TRANSFER OF TITLE

5.1 Price.

5.1.1 The price of Goods (the "Price") is the one offered by Seller to Buyer for the sale of the Goods and/or the provision of the Services and specified accordingly in the applicable PO. Unless otherwise agreed in writing, the Price includes standard packaging but is exclusive of any freight, handling and shipping insurance charges. The Price does not include any national, state or local sales, use, value added, import, export or other taxes. Buyer shall pay any such taxes, if applicable. Buyer shall bear sole responsibility for any withholding tax liabilities.

5.1.2 Seller may increase the Price with reasonable notice in case of (i) a major increase of transportation costs, fuels' costs, labor's costs, raw materials' costs, and other production costs, (ii) significant changes of currency exchange rates, taxes, duties. The timing of implementation of any increase, if any, will be agreed with Buyer.

5.2. Payment.

5.2.1 Buyer shall pay all invoices within thirty (30) days net from the date of invoice. All payments shall be in USD, unless otherwise agreed to in writing. Payment is deemed made when Seller's bank account is credited with the full amount corresponding to the invoice. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees.

5.2.2 If, at any time, Seller reasonably determines that Buyer's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to Seller's other rights under this Agreement, Seller may, without liability or penalty, take one or more of the following actions: (i) on ten (10) day's prior written notice, modify the payment terms specified in Section 5.2.1 for outstanding and future PO; (ii) reject any PO received from Buyer and not yet accepted; (iii) delay or withhold any further shipment of the Goods or delivery of the Services to Buyer; (iv) stop delivery of any Goods in transit and cause such Goods in transit to be returned to Seller; and/or (v) terminate the unpaid PO and any other unpaid PO previously accepted by Seller, as provided for in Section 12.2. Lastly, for the following PO, Seller reserves the right to request payment on the date of Seller's written acceptance of the PO.

5.2.3 In no event shall Buyer be entitled to set-off any amount claimed to be due by Seller against any amount due to Seller, without the express written approval of Seller.

5.3 Transfer of Title. Transfer of title to the Goods is subject to full and complete payment of the Price.

6. WARRANTIES AND REMEDIES

6.1 Seller warrants that all Goods will be free from defects in design (unless such design is provided or requested by Buyer), material, and workmanship for a period of twelve (12) months from the delivery date unless indicated otherwise in Seller's offer ("Warranty Period"). Notwithstanding the foregoing, Seller's warranty for any tools, accessories or goods, which are not manufactured by Seller but sold by Seller in connection with the provision of the Goods or the Services hereunder, shall not exceed the terms and period of warranty granted by its suppliers or manufacturers to Seller. Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications in accordance with generally recognized industry standards for similar services.

6.2 Warranty Exclusions: The warranties set forth in the Section 6.1 do not apply to and Seller makes no representations or warranty whatsoever with respect to defects caused by: (i) normal wear and tear, (ii) improper transportation, handling, storage by Buyer, (iii) installation and/or maintenance not operated as per recommendation or instructions provided by Seller, or by skilled personnel, (iv) defects in the products or equipment not supplied by Seller in which the Goods have been incorporated (v) the Goods operated beyond their respective performance rates as per agreed specifications, or (vi) any repair or replacement of the defective part of the Goods by Buyer or a third party, without Seller's prior written authorization.

- 6.3 The warranties set forth in Section 6.1 apply provided that (a) Seller is notified in writing by Buyer within thirty (30) days after discovery of defects; (b) at Seller's option, either Buyer returns the defective Goods to Seller at Buyer's expense or provides Seller with access to the Goods on Buyer's site as stated in Section 6.4; and (c) Seller's examination of such Goods shall disclose that such defects or failures have not been caused by any of the Warranty Exclusions.
- 6.4 Any Goods or Services found defective by Seller shall result, at the Seller sole discretion, in either repair or replacement of the Goods or correction of the Services, at Seller's expenses, or reimbursement to Buyer of the Price of the Goods or Services. The terms of these warranties shall apply to any repaired or replacement Goods or corrected Services supplied by Seller for the remaining term of the relevant Warranty Period. In case Seller elects to inspect and/or repair the Goods or correct Services on Buyer's site, Buyer shall provide Seller with all necessary access to, including, facilities and qualified personnel.
- 6.5 **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, SECTION 6.4 SETS FORTH BUYER'S SOLE AND EXCLUSIVE REMEDIES UNDER THE WARRANTIES SET FORTH IN SECTION 6.1, AND BUYER WAIVES ALL OTHER REMEDIES, STATUTORY OR OTHERWISE.** In the event that the foregoing exclusive remedies under this warranty are determined upon judicial or arbitral review to be inadequate by law, the alternate exclusive remedy shall be the refund of the purchase Price of the defective Goods or Services. **THE WARRANTIES SET FORTH IN SECTION 6.1 ARE THE SOLE AND EXCLUSIVE WARRANTIES OF SELLER, WITH THE EXCLUSION OF ANY OTHER STATUTORY OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT FOR THE PURPOSE AGREED WITH BUYER.**
7. INTELLECTUAL PROPERTY
- 7.1 Each Party shall remain the owner of the intellectual property rights which belong to it at the time of signature of the Agreement, in particular its patents, trademarks, models, copyrights and know-how ("IPR"). The signing and execution of the Agreement do not entail any assignment of IPR from one Party to the other.
Seller shall keep any and all IPR it owns to the Goods and to the Services, without limitation, including on drawings, plan, samples, specifications made or developed, etc. Buyer shall not attempt to disassemble or reverse engineer the Goods. All IPR in any improvements or modifications to the Goods shall vest solely with the Seller.
Any IPR held by Buyer that may be made available to Seller in connection with the performance of the Agreement shall not entail any transfer to Seller.
- 7.2 Buyer warrants that it owns or has a license right to all IPR necessary to enable it to transmit data, files and documents to Seller for the performance of the Agreement and shall hold harmless and indemnify Seller against any claim or demand by a third party in respect thereof.
- 7.3 All goodwill associated with any Seller's trademarks inures solely to Seller, and Buyer shall take no action to damage the goodwill associated with Seller's trademarks or Seller.
- 7.4 As of the date of delivery, Seller warrants that the Goods or Services do not infringe IPR of any third party. Should nevertheless a claim for infringement of IPR in respect of the Goods or Services be made by a third party, Seller will indemnify Buyer against any liabilities, costs, expenses, damages and losses incurred by Buyer as a result of a breach by Seller of the warranty under this Section and will pay those costs and damages resulting from a final decision of a court of competent jurisdiction or competent arbitration court. Seller's obligations in this Section are subject to the conditions that: (i) Seller is notified promptly in writing by Buyer of any claim; (ii) Buyer does not make any acknowledgement of liability of which it seeks to be indemnified under this Section; (iii) Seller has sole conduct, authority, and control of the defense and all negotiation for any settlement or compromise thereof; and (iv) Buyer provides Seller with all information and reasonable assistance to handle the defense or settlement of the claim.
- 7.5 Notwithstanding anything to the contrary contained herein, Seller shall have no obligation to indemnify Buyer with respect to any claim relating to, based on, or arising out of: (i) any modification or servicing made to the relevant Goods by Buyer or any third party without Seller's approval; (ii) the combination, integration, application, operation or use of the relevant Goods with any equipment, device, apparatus, program, code or data that is not manufactured, provided, indicated as being compatible with the Goods or developed by Seller, and where such combination, integration, application, operation or use is the object of the claim; (iii) any use of the Goods or Services not intended by Seller; (iv) claims in issued patents that are essential or necessary to implement an industry standard promulgated by a recognized industry trade group or standard setting organization; (v) Buyer's failure(s) to use materials or instructions provided by Seller which would have rendered the relevant Goods or Services or its use non-infringing; and (vi) the continued sale, distribution, or use of the relevant Goods after Buyer has been provided with and fails to implement modifications or updates that would have avoided the alleged infringement within a reasonable time period.
- 7.6 Should the relevant Goods or Services become (or in Seller's opinion be likely to become) the subject of any infringement claim, Seller will have the option, at its sole discretion: (i) to procure for Buyer the right to continue using the relevant Goods or the result of the Services; (ii) replace the relevant Goods with a substantially equivalent non-infringing product; (iii) modify the relevant Goods so they become non-infringing; or (iv) if solutions stated in (i), (ii), and (iii) are not technically and/or commercially feasible or suitable, terminate immediately, in whole or in part, the applicable Agreement involving the relevant Goods or Services and reimburse Buyer for the Goods' or Services' purchase Price.
- 7.8 **TO THE EXTENT PERMITTED BY APPLICABLE LAW, THIS SECTION 7 AND SECTION 8 BELOW SET FORTH SELLER'S ENTIRE LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ANY INTELLECTUAL PROPERTY RIGHTS CLAIMS RELATING TO THE GOODS OR THE SERVICES, AND BUYER WAIVES ALL OTHER REMEDIES, STATUTORY OR OTHERWISE.**
8. LIMITATION OF LIABILITY
- 8.1 **TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY UNDER THESE GTCS AND ANY PO HEREUNDER (WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OTHER TORT THEORY, CONTRIBUTION, BREACH OF WARRANTY, OR OTHER LEGAL OR EQUITABLE THEORY) FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR ANY DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, LOSS OF PRODUCTION, LOSS OF REVENUE OR BUSINESS INTERRUPTION LOSSES, ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.**
- 8.2 **TO THE EXTENT PERMITTED BY APPLICABLE LAW, SELLER SHALL NOT BE HELD LIABLE FOR ANY DAMAGES ARISING FROM OR IN CONNECTION WITH THE USE OR MISUSE OF THE GOODS OR THE SERVICES BY BUYER, ITS EMPLOYEES, CUSTOMERS OR OTHERS.**
- 8.3 **TO THE FULLEST EXTENT PERMITTED BY THE APPLICABLE LAW, THE TOTAL CUMULATIVE LIABILITY OF SELLER AND ITS AGENTS OR EMPLOYEES, ARISING FROM OR IN CONNECTION WITH THE AGREEMENT AND/OR ANY PO FROM ANY CAUSE WHATSOEVER, WHETHER BASED ON CONTRACT, OR TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, UNDER ANY WARRANTY OR OTHERWISE, SHALL, IN NO EVENT AND UNDER NO CIRCUMSTANCES, EXCEED THE TOTAL PAYMENTS MADE BY BUYER PURSUANT TO THE PO, AND EFFECTIVELY RECEIVED BY SELLER AT THE TIME OF BUYER'S CLAIM.**
- 8.4 **THE FOREGOING LIMITATION OF LIABILITY SHALL REMAIN IN FULL FORCE AND EFFECT REGARDLESS OF WHETHER BUYER'S REMEDIES HEREUNDER ARE DETERMINED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.**
9. CONFIDENTIALITY
- 9.1 "Confidential Information" means all information, processes,

- know-how, ideas, specifications, and documentation which either Party may have imparted to the other relating to the Goods or the Services or to each Party's business and which relates to the subject matter of this Agreement and includes among others, the Price, specifications, and the design of the Goods or the Services, information relating to the personnel, policies, clientele or business strategies of either Party, and any information relating to the terms upon which the Goods or the Services are to be sold under these GTCS and PO. Notwithstanding the foregoing, the following shall not be considered as Confidential Information hereunder any information that: (i) is already in possession of the receiving Party at the time of disclosure by the disclosing Party and continues to be held in confidence in accordance with the terms on which it was obtained; (ii) is or subsequently comes into the public domain through no fault or action or failure to act on the part of the receiving Party; (iii) is lawfully obtained by the receiving Party from a third party having the right to disclose it; or (iv) is independently developed by the receiving Party without use of any Confidential Information of the disclosing Party.
- 9.2 The Parties shall refrain from disclosing and prevent their employees, agents or legal successors from revealing to any third party any Confidential Information regarding the other Party, without its prior written approval. Each Party shall use the other Party's Confidential Information solely to perform under this Agreement
- 9.3. The provisions of this Section 9 will remain in force for a period of (5) years from the date of termination of the Agreement.
10. **FORCE MAJEURE**
- 10.1 A Party shall not be liable for delay in performance or failure to perform in whole or in part its obligation under this Agreement or to be in breach of this Agreement due to causes beyond the reasonable control of such Party and/or any event of Force Majeure. "**Force Majeure**" means any cause existing or future, which is beyond a Party's reasonable control including but not limited to acts of God, storm, fire, flood, earthquake, strike, lock-out or any combination of workmen which may interfere with the commencement or progress of the work, equipment failures, interruptions of or delay in transportation, or power, energy failures, steelworks stoppages, shortages of raw materials, faulty castings or forging, embargo, prohibition of trade, sabotage, all epidemics and/or pandemics, interference by civil or military authorities, acts (including delay or failure to act), regulations or orders of any governmental authority, acts of war (declared or undeclared), hostilities.
- 10.2 The Party alleging a cause of Force Majeure shall notify the other Party within a reasonable time by any practicable mean (email, letter or facsimile). The period of performance for the Party affected by such a cause of Force Majeure shall be extended by the duration of said cause, provided, however, if any such delay shall continue for more than three (3) months, the Party not subject to a cause of Force Majeure may cancel the affected Agreement by written notice to the other Party at any time, without incurring any liability to such Party.
11. **COMPLIANCE WITH LAWS AND CODE OF ETHICS**
- 11.1 Buyer shall comply fully with all applicable laws, regulations and ordinances including applicable data protection and privacy laws. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply fully with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer, including, without limitation EU and US export and import control laws. Buyer further agrees to accept and assumes all responsibility for shipments of the Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on the Goods or the Services.
- 11.2 Dedicated to sustainability and responsible commercial practices, Seller and its group attach great importance to labour, competition, anti-corruption and money-laundering legislation and have joined the United Nations Global Compact. Seller requires its suppliers and customers to comply with its Code of Ethics and to maintain a corporate policy that will respect the commitments of the United Nations Global Compact by applying the ten principles of the Global Compact regarding Human Rights, Labour Laws, Environment and anti-corruption to themselves and their own suppliers and customers. To consult these principles visit the following website: <http://www.unglobalcompact.org/>. To consult Seller Code of Ethics visit the following website: <https://www.mersen.com/group/ethics-and-compliance>
- 11.3 The Goods, including any software, documentation, and any related technical data included with, or contained in, such Goods, and any products utilizing any such Goods, software, documentation, or technical data (collectively, "**Regulated Goods**") may be subject to US export control laws and regulations, including the Export Administration Regulations and the International Traffic in Arms Regulations. Buyer shall not, and shall not permit any third parties to, directly or indirectly, export, reexport, or release any Regulated Goods to any jurisdiction or country to which, or any party to whom, the export, reexport, or release of any Regulated Goods is prohibited by applicable federal or foreign law, regulation, or rule. Buyer shall be liable for any breach of this Section 11.3 by its, and its successors' and permitted assigns', parent, affiliates, employees, officers, directors, partners/members/shareholders, customers, agents, distributors, resellers, or vendors. Buyer shall comply with all applicable federal and foreign laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, reexporting, or releasing any Regulated Goods.
- 11.4 **OFAC Representation.** Buyer represents that it is in compliance with all Laws administered by the US Treasury Department's Office of Foreign Assets Control ("**OFAC**") or any other Governmental Entity imposing economic sanctions and trade embargoes ("**Economic Sanctions Laws**") against designated countries, entities, and persons (collectively, "**Embargoed Targets**"). Buyer represents that it is not an Embargoed Target or otherwise subject to any Economic Sanctions Law.
- 11.5 **OFAC Covenant.** Without limiting Section 11.1, Buyer shall comply with all Economic Sanctions Laws, including without limitation, Buyer shall not (a) directly or indirectly export, re-export, transship, or otherwise deliver the Goods or the Services or any portion of the Goods or the Services to an Embargoed Target or (b) broker, finance, or otherwise facilitate any transaction in violation of any Economic Sanctions Law.
- 11.6 Buyer's failure to comply with the terms of this Section shall constitute a material breach entitling Seller to terminate these GTCS and any PO with immediate effect.
12. **TERMINATION**
- 12.1 In addition to any rights or remedies available under the Agreement, either Party shall have the right to terminate a PO immediately at any time by giving notice in writing to the other Party with effect from the date specified in such notice: (i) if the other Party commits a material breach of its obligations under Section 11 or any of its obligations under the Agreement which is not capable of remedy; (ii) if the other Party has committed a material breach of any of its obligations under the Agreement which is capable of remedy but which has not been remedied within a period of thirty (30) days following receipt of written notice to do so; (iii) if the other Party (a) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due, (b) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, (c) makes or seeks to make a general assignment for the benefit of its creditors, or (d) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business; or (iv) pursuant to Section 10 (Force Majeure).
- 12.2 In addition to any rights or remedies available under the Agreement, Seller may terminate a PO and any unpaid PO previously accepted by Seller if Buyer fails at any time to pay any amount due and payable to Seller under the relevant PO and such failure continues for thirty (30) days after Buyer's receipt of written notice of non-payments.

13. GOVERNING LAW, JURISDICTION, AND JURY TRIAL WAIVER

- 13.1 This Agreement shall be construed and interpreted in accordance with the laws of New York, without regards to its conflicts of law. This Agreement will not be governed by the U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded by the Parties and does not apply to the interpretation or enforcement of a PO.
- 13.2 The Parties agree that all disputes, actions, claims or controversies which may arise out of or in connection with the interpretation or performance of this Agreement shall be exclusively submitted to the United States District Court for the Southern District of New York, or, if such court should not hold proper jurisdiction, to the New York State Supreme Court located in New York County (Manhattan) and the Parties acknowledge the jurisdiction of such court.
- 13.3 **THE PARTIES FURTHER HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LAWSUIT OR JUDICIAL PROCEEDING ARISING OR RELATING TO THE AGREEMENT.**

14. MISCELLANEOUS

- 14.1 These GTCS (and the accompanying PO/quotation/confirmation of sale/invoice) embody the entire understanding between the Parties and supersede all previous agreements, understandings or representations whether in writing or orally regarding its subject matter. All agreed additions or modifications to these GTCS shall be made in writing and signed by duly authorized representatives of both Parties, failing which such modifications and amendments shall be deemed null and void.
- 14.2 **THE RIGHTS AND REMEDIES SET IN THIS AGREEMENT ARE THE ONLY RIGHTS AND REMEDIES RELATING TO THE SUBJECT MATTER OF THE AGREEMENT WHETHER FOR BREACH OF CONTRACT, ANY TORTIOUS ACT OR OMISSION, BREACH OF STATUTORY DUTY OR OTHERWISE, AND ARE TO THE EXCLUSION OF ANY OTHER LEGAL RIGHTS AND REMEDIES. NOTHING IN THIS AGREEMENT SHALL OPERATE TO EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY TO THE EXTENT THAT IT CANNOT BE EXCLUDED OR LIMITED BY LAW.**
- 14.3 The Agreement may be executed in counterparts, each of which shall be deemed an original, but all such counterparts taken together constitute one and the same agreement. An executed copy of the Agreement transmitted by facsimile, email or other means of electronic transmission shall be deemed legally enforceable as the original signed copy of the Agreement.
- 14.4 In the event any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and these GTCS shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 14.5 In no event may a Party assign any of its rights, interests or obligations under this Agreement without the other Party's prior written approval. No assignment or delegation relieves a Party of any of its obligations under this Agreement.
- 14.6 The failure of a Party to enforce a provision, exercise a right or pursue a default of this Agreement shall not be considered a waiver. The express waiver of a provision is to be effective only in the specific instance, and as to the specific purpose, for which it was given.
- 14.7 The relationship between the Parties is that of independent contractors.
- 14.8 The Parties' rights and obligations which by their sense and context are intended survive any termination or expiration of the Agreement shall so survive, including but not limited to Sections 1, 5, 6, 7, 8, 9, 10, 11, 13 and 14.