

Kutir Mobility

End User License Agreement

PLEASE READ THE FOLLOWING LICENSE AGREEMENT BEFORE INSTALLING OR ACCESSING AND USING THE KUTIR MOBILITY SOFTWARE PROGRAM (THE "SOFTWARE") ASSOCIATED WITH THIS AGREEMENT.

SIGNING THE AGREEMENT BELOW, INSTALLING, DOWNLOADING OR LOGGING IN AND ACCESSING THE SOFTWARE, INDICATES ACCEPTANCE OF AND AGREEMENT TO, AND LEGALLY BINDS YOU, YOUR EMPLOYER (COLLECTIVELY THE "YOU" OR "CLIENT") AND KUTIR MOBILITY ("KUTIR"), TO THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT. IF YOU DO NOT ACCEPT AND AGREE TO THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT THEN EITHER DO NOT DOWNLOAD, INSTALL, ACCESS OR OTHERWISE USE THE SOFTWARE.

THE RIGHT TO USE THE SOFTWARE IS CONDITIONAL UPON ACCEPTANCE OF THIS AGREEMENT, UNLESS YOU HAVE ENTERED INTO A WRITTEN AND DULY SIGNED LICENSE AGREEMENT WITH KUTIR MOBILITY, IN WHICH CASE SUCH SIGNED LICENSE AGREEMENT WILL GOVERN THE CLIENT'S USE OF THE SOFTWARE.

1. SCOPE AND LEGAL EFFECT

This is a legal agreement with Kutir Mobility ("Kutir") concerning your use of the Software described below. The rights granted to the Software are expressly conditioned upon acceptance of the terms and conditions contained herein by the legal entity or person acquiring the license and, if applicable, responsible for payment. If you are using the Software as an employee, the legal entity that employs you is the licensee of the Software and is referred to herein as the "Client". Your employer may have already accepted a version of this Agreement by signing an Order referencing this Agreement. In all other circumstances, you are binding your employer and yourself personally as an employee, to this Agreement by installing and using the Software. References below to "You" or "Your" refer to the licensee of the Software.

2. DEFINITIONS

In this Agreement or in any Order relating to the Software governed by this Agreement, the following terms shall have the following meanings respectively:

- 2.1. "Documentation" means the explanatory user materials supplied by Kutir with the Software in electronic form.
- 2.2. "Effective Date" has the meaning ascribed thereto in Section 4.1 hereof.
- 2.3. "Hardware" means any mobile electronic device, mobile phone, mobile data terminal, or mobile asset (including vehicles, trailers or containers), installed modem, related sensors and other equipment or accessories required to use the Software as intended as described in the Documentation.
- 2.4. "Order" means Kutir's invoice or Client's purchase order, provided that it has been accepted by Kutir or one of its authorized resellers or distributors.
- 2.5. "Product" means the Software and the Documentation.
- 2.6. "Subscriber" means a Hardware unit connected to any wired or wireless network such as a cellular network or a wi-fi network or a local area network that transmits location information and

other data to the servers running the Software or a User (defined in 2.8) using such a hardware unit.

2.7. "Subscription Term" means the license term specified in the Order.

2.8. "User" means an employee or contractor of Client.

3. LICENSE GRANTS

3.1. BY KUTIR

3.1.1. **Software License.** Kutir hereby agrees to provide Client with the Software and user documentation (the "Documentation") (the Software and the Documentation are hereinafter sometimes collectively referred to as the "Product") and hereby grants to Client a non-exclusive, non-sublicensable, non-transferable right and license, solely during the Subscription Term, to install or access and use the Software, on as many Subscribers for which Client is paying a subscription fee (as specified in one or more Orders), in accordance with the terms of this Agreement, including the following rights and restrictions:

3.1.1.1. You may install or access and use the Software, only on devices approved by Kutir Mobility, provided that the Client is paying a subscription fee to Kutir or one of its authorized resellers or distributors for each copy of the Software that will be used.

3.1.1.2. You may not:

- (i) make copies of the Software and Documentation except as permitted in this Agreement;
- (ii) reverse engineer, disassemble, reverse translate, decompile, or in any other manner decode the object code for the Software in order to derive the source code form, or decode any passwords or encrypted license or installation keys that have been provided to You by Kutir in order to enable the execution of the Software on unauthorized equipment, or for any other reason do or attempt to do any of the foregoing, except to the extent the foregoing restriction is expressly prohibited by applicable law;
- (iii) assign (by operation of law or otherwise) or transfer this Agreement or Client's interest in or rights under this Agreement, or attempt to do so or enter into any agreement to do so with any other party, without the prior written agreement of Kutir, and any such assignment or attempted assignment shall be null and void and shall result in the automatic and immediate termination of this Agreement;
- (iv) knowingly interfere with service to any of Kutir's users, host or network, including by means of intentionally submitting a virus, overloading, flooding, spamming, mail bombing or crashing;
- (v) except as expressly provided herein, or unless expressly authorized by Kutir in writing, sublicense, distribute, transfer, loan, use, lease or otherwise make available the Software and Documentation, or any part thereof, to any third party; or
- (vi) remove any copyright notices, trade-marks, or any other proprietary legends and/or logos of Kutir or its licensors appearing on the Software or the Documentation.

3.1.2. Documentation License. Client may, during the Subscription Term, use the Documentation provided by Kutir to assist Client with the operation and use of the Software solely to support Client's use of the Software as permitted hereunder.

3.1.3. Evaluation License. If you are evaluating the Software, Kutir hereby grants to you, free of charge, a non-exclusive, non-transferable, limited-term license (the "Evaluation License") to use the object code version of the Software solely for internal testing and evaluation. You shall not publish any results of benchmark tests run on the Software or disclose its features, errors or bugs to a third party without Kutir's express prior written consent. During the term of the Evaluation License Kutir shall be under no obligation to provide any technical support; provided however, that Kutir may in its sole discretion (i) fix reported errors; (ii) provide You with updates to the Software for installation by You; and (iii) provide You with support and consultation concerning the Software and Documentation.

3.2. BY CLIENT

3.2.1. Client hereby grants Kutir a royalty-free, non-transferable (save to the extent set out in sub-clause 3.2.5), non-exclusive, perpetual license to use your data to the extent necessary to perform, improve or provide access to the Software.

3.2.2. Client acknowledges and agrees that Kutir has no control over any of Client's data during Client's use of the KUTIR Software, and that Client is solely responsible for the content of Client's data.

3.2.3. Client undertakes that Client's data does not: (a) breach any applicable law; (b) infringe any third party intellectual property rights; or (c) contain any material which is obscene, indecent, pornographic, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous, (together 3.2.3 (a), (b) and (c) hereinafter collectively referred to as 'Infringing Data').

3.2.4. Kutir may monitor the content of Client's data to ensure it is not Infringing Data. Kutir shall have the right to remove Client's data from the Software and suspend or terminate Client's account without prior notice to Client if Client's data is Infringing Data, and Client hereby agrees to indemnify, defend and hold Kutir harmless from any and all claims, actions, damages, penalties, assessments, attorneys' fees, or other monetary impact resulting from third party claims based upon, or relating to Client's Infringing Data.

3.2.5. By using the Software you agree and consent to your data being collected, stored and processed by Kutir. In connection with the provision of the Software, we may transfer, store and process your data across national borders, including but not limited to the countries in which Kutir maintains facilities, and you hereby unambiguously consent to such transfer, storage and processing.

3.3. Reservation of Rights. This Agreement does not constitute a sale of the Software. Client is granted no title, ownership or intellectual property rights in or to the Software or Documentation, in whole or part. All such rights shall remain in Kutir and/or in licensors to Kutir of programs provided within the Software. All copies of the Software (but not the media on which the copies are encoded) shall be and remain the property of Kutir or its licensors. Copyright or other notices marked on the Product must be reproduced by Client on all copies Client makes.

4. TERM

- 4.1. **Term.** This subscription license is effective upon the installation of the Software by You (hereinafter referred to as the "Effective Date") and shall remain in effect for the Subscription Term or for as long as the Client continues to pay the applicable subscription fees to Kutir or its authorized reseller or distributor, or for such other term (and on such other terms and conditions relating thereto) as the Client and Kutir or its authorized reseller or distributor may agree upon in writing.
- 4.2. **Suspension for Non-Payment.** Kutir may immediately suspend Client's license to use the Product if Client fails to make any payment due in respect of the Product and does not cure such non-payment within ten (10) business days after receiving notice of such failure. Any suspension of the licensed rights hereunder by Kutir under the preceding sentence shall not excuse Client from its obligation to make all payment(s) due to Kutir under this Agreement or any other agreement.
- 4.3. **Termination.** Kutir may terminate this Agreement if (i) Client is in breach of the terms of this Agreement, (ii) if Client is in direct competition with Kutir, or (iii) proceedings under bankruptcy or similar insolvency laws are instituted by or against Client and are not dismissed within sixty (60) days, Client makes an assignment for the benefit of its creditors, or a receiver, liquidator or similar officer is appointed for the business, property, affairs or revenues of Client and such proceedings continue for thirty (30) days. If Client fails to pay the amounts invoiced in respect of the Product, Client shall be deemed to have materially breached this Agreement. If Kutir terminates this Agreement for Client's non-payment, Client must pay within fifteen (15) days all amounts which have accrued prior to such termination, as well as all amounts payable by Client on account of the remainder of the then-current Subscription Term (even if earlier terminated) under this Agreement.
- 4.4. **Obligations on Termination.** Upon the termination of this Agreement, Kutir will have the right to terminate Client's access to and use of the Product and Client shall forthwith (i) discontinue the use of the Software, (ii) return to Kutir or destroy all copies of the Software and Documentation, (iii) remove from all computers all copies of the Software, and (iv) certify to Kutir that it has complied with the requirements of this Section 4.4.

5. LICENSE FEES

- 5.1. Unless otherwise agreed to in writing by Kutir, all subscription fees for the Product are based upon the number of Subscribers in use by Client and shall be determined in accordance with the then current Kutir price list, the authorized reseller's or distributor's price list or such other terms and conditions relating to subscription fees as may be agreed upon by the Client and Kutir or its authorized reseller or distributor.
- 5.2. All subscription fees are exclusive of all sales taxes, use taxes, value-added taxes, goods and services taxes, and similar taxes, including withholding taxes, customs duties or similar charges. Such taxes and charges shall be incremental to the fees and shall be payable by Client in accordance with applicable law.

6. CLIENT REQUIREMENTS AND RESPONSIBILITIES

- 6.1. **Desktop Requirements.** Client agrees that desktop or laptop computers or any computer that runs the Software will have the latest version either of Chrome, FireFox or Safari, or version 10 or above of Internet Explorer.
- 6.2. **Mobile device Requirements.** Client agrees that the mobile devices running the mobile component of the Software will have the hardware accessories and software as specified by Kutir.

- 6.3. **Client Installation.** Client is responsible for the installation of the client application of the Software on the desktop or laptop computers operating the Software. Kutir will provide instructions and technical support on how to download and install the client application of the Program on the Client's desktop and laptop computers.

7. KUTIR RESPONSIBILITIES

Database Backup. A complete backup of the Client's database will be stored by Kutir on a secondary server which is different from the server where the production version of Client's database is located..

7.1. CLIENT CONFIDENTIALITY OBLIGATIONS

The Software, whether provided in source code or object code form, including without limitation, the specific design, structure and logic of individual programs, their interactions both internal and external, and the programming techniques employed therein are considered confidential and trade secrets of Kutir and/or its licensors (the "Confidential Information"), the unauthorized disclosure of which would cause irreparable harm to Kutir. Client shall use the same degree of care and means that it uses to protect its own information of a similar nature, and in any event, shall use reasonable efforts to prevent the disclosure of Confidential Information to any third parties. Client shall not use, reproduce or distribute the Confidential Information other than for the purposes authorized by this Agreement. This confidentiality obligation shall continue to apply to the Confidential Information following the termination hereof, provided that the confidentiality provisions contained herein shall not apply to Confidential Information which (i) was known by Client prior to disclosure, as evidenced by its business records; (ii) was lawfully in the public domain prior to its disclosure, or becomes publicly available other than through a breach of the confidentiality provisions contained herein; (iii) was disclosed to Client by a third party, provided such third party or any other party from whom such third party receives such information is not in breach of any confidentiality obligation in respect of such information; or (iv) is disclosed when such disclosure is compelled pursuant to legal, judicial, or administrative proceeding, or otherwise required by law, provided that Client shall give all reasonable prior notice to Kutir to allow it to seek protective or other court orders.

8. LIMITED WARRANTY

- 8.1. **Software Warranty.** Kutir warrants that the Software will perform substantially in accordance with the Documentation or other specifications published by Kutir for a period of thirty (30) days from the date that the Software is made available to You for download, installation or access, or Your receipt of the Software by Client. Kutir does not warrant, however, that Client's use of the Software will be uninterrupted, that the operation of the Software will be error-free, that the Software will meet Client's requirements or that all errors will be corrected. If during the warranty period, as defined above, the Software fails to perform in accordance with the warranty, Kutir shall use reasonable commercial efforts to correct the failure of the Software to perform in accordance with the warranty. If Kutir is unable to correct the failure within a reasonable time, the Client may terminate this Agreement and Kutir shall refund the subscription fees paid by Client to Kutir for the Software.
- 8.2. **Warranty Exclusions.** If any modifications are made to the Software by Client during the warranty period then the above warranty shall immediately be terminated. This warranty shall not apply if the Software is used on or in conjunction with hardware or programs other than the unmodified version of the hardware and programs with which the Software is designed to be used as described in the Documentation.
- 8.3. **No Warranty for Evaluations.** IF CLIENT IS EVALUATING THE SOFTWARE THEN THE SOFTWARE AND DOCUMENTATION IS PROVIDED TO CLIENT BY KUTIR ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES OR CONDITIONS OF ANY KIND.

- 8.4. **Warranty Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS SECTION 9, THE PRODUCT IS PROVIDED ON AN “AS IS” BASIS, WITHOUT ANY OTHER REPRESENTATIONS, WARRANTIES, OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS, WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR THOSE ARISING BY LAW, USAGE OF TRADE OR COURSE OF DEALING. KUTIR DOES NOT WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF USE, OF THE PROGRAM AND THE ACCOMPANYING DOCUMENTS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, CURRENCY, OR OTHERWISE. KUTIR DOES NOT OTHERWISE WARRANT THAT THE PROGRAM WILL MEET CLIENT’S REQUIREMENTS THAT THE OPERATION OF THE PROGRAM WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL PROGRAM ERRORS WILL BE CORRECTED.
- 8.5. **Internet Connectivity Disclaimer.** Kutir makes the Software available for access via the Internet. Client shall provide, at Client’s own expense, all necessary hardware, applications and Internet connectivity necessary to access the Software over the Internet. Client acknowledges that the Internet is known to be unpredictable in performance and may, from time to time, impede access to the Software or performance hereunder. Except as expressly set forth herein, Client agrees that Kutir is not responsible for any interference with Client’s use of or access to the Software to the extent caused by, arising from or attributable to the Internet.

9. IP INFRINGEMENT INDEMNIFICATION

- 9.1. **Kutir Indemnity.** Kutir will defend and indemnify Client (including its employees, contractors, officers and directors) against fines, penalties, losses, costs, damages, injuries, claims, liabilities, settlements and expenses (including reasonable legal fees and expenses) arising from third party claims that the exercise of the rights granted hereunder infringes any third party patent, copyright, or trade secret (“Infringement Claim Liabilities”).
- 9.2. **Conditions to Indemnity.** As a condition of such obligation to defend and indemnify the Client pursuant to Section 10.1 hereof, Client shall give Kutir prompt written notice of any such claim, and cooperate and provide reasonable information and assistance in connection with the defense and settlement of such claims. Kutir shall have sole control of the settlement or defense of all infringement claims.
- 9.3. **Exceptions.** Kutir shall not be responsible for indemnifying Client to the extent that the infringement claim liability results from (i) compliance with Client’s designs, specifications, or written instructions as requested and provided by Client to Kutir; (ii) modification by Client of the Product if such infringement would have been avoided but for such modification; (iii) the combination of Product with equipment or software not authorized or provided by Kutir or otherwise approved by Kutir in the Product documentation, if such infringement would have been avoided but for such combination; or (iv) the failure by Client to use an updated or current version of the Product provided by Kutir following notice by Kutir that the previous version of the Product infringes any third party intellectual property right.
- 9.4. **Other Remedies.** Without limiting the provisions of Section 9.1 above, and in addition thereto, if the Product becomes, or in the opinion of Kutir may become, the subject of a claim of infringement of a United States patent, copyright or trade secret, Kutir may, at its sole option, (a) obtain the right for Client to exercise their rights in accordance with this Agreement, (b) substitute other non-infringing software with equivalent functional capabilities, (c) modify the Product while retaining equivalent functional capabilities, so that it no longer infringes, or (d) if none of the foregoing are commercially feasible, as determined by Kutir in its sole discretion, terminate the license(s) for such Software and refund to Customer that portion of any prepaid

subscription Fees that is applicable to the period following the termination of the License pursuant to this Section 10.4.

- 9.5. **Exclusive Remedies.** SECTION 10 HEREOF CONTAINS KUTIR'S ENTIRE LIABILITY, AND CLIENT'S SOLE AND EXCLUSIVE REMEDIES, FOR INFRINGEMENT CLAIM LIABILITIES.

10. LIMITATION OF LIABILITY

- 10.1. **Indirect Damages.** EXCEPT FOR A BREACH OF SECTION 7.1 HEREOF, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING FOR LOSS OF USE, DATA, BUSINESS, LOSS OF GOODWILL, REPUTATION, CREDIT OR PUBLICITY, LOSS OF REVENUE AND INTEREST, PROFITS, OR ANTICIPATED PROFITS AND CLAIMS FOR SUCH DAMAGES BY A THIRD PARTY) RELATED TO OR ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR SUCH DAMAGE WAS REASONABLY FORESEEABLE.
- 10.2. **Direct Damages.** KUTIR SHALL ONLY BE LIABLE FOR DIRECT DAMAGES. EXCEPT FOR CLAIMS MADE UNDER SECTION 10 HEREOF, THE TOTAL LIABILITY OF KUTIR FOR ANY CLAIM FOR DIRECT DAMAGES RELATED TO OR ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND WHETHER OR NOT KUTIR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES WERE REASONABLY FORESEEABLE, SHALL NOT EXCEED THE SOFTWARE SUBSCRIPTION FEES PAID BY THE CLIENT TO KUTIR, DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM.

11. U.S. GOVERNMENT END-USERS

The Software and Documentation is a "commercial item" as that term is defined at FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are defined in FAR 12.212, and is provided to the U.S. Government only as a commercial end item. Government end users acquire the rights set out in this Agreement for the Software, Plug-in(s) and Documentation consistent with: (i) for acquisition by or on behalf of civilian agencies, the terms set forth in FAR12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, the terms set forth in DFARS 227.7202. Use of the Software and related Documentation is further restricted by the terms and conditions of this Agreement. Manufacturer is Kutir Mobility, Inc., 37600 Central Court, Suite 280, Newark, CA 94560.

12. EXPORT RESTRICTIONS

The Software and related information are subject to export and import restrictions. By downloading, installing, accessing or using the Software, You are representing and warranting that You are not located in, under the control of, and are not a national or resident of, any country to which the export of the Software or related information would be prohibited by the laws and/or regulations of the United States. You are also representing and warranting that You are not an individual to whom the export of the Software or related information would be prohibited by the laws and/or regulations of the United States. You shall comply with the export laws and regulations of the United States that are applicable to the Software and related information and You shall comply with any local laws and/or regulations in Your jurisdiction that may impact Your right to export, import, or use the Software or related information, and You represent and warrant that You have complied with any such applicable laws and/or regulations. The Software shall not be used for any purposes prohibited by export laws and/or regulations, including, without limitation, nuclear, chemical, or biological weapons proliferation. You

shall be responsible for procuring all required permissions for any subsequent export, import, or use of the Software or related information.

13. SUPPORT

13.1. **Support Terms.** Support is included in the license fees and is provided by Kutir in accordance with its then-current standard support terms, a copy of which can be found at www.kutirtech.com/support (the "Support Terms"). Kutir's Support Terms are subject to change from time to time in Kutir's sole discretion.

13.2. **Exclusions.** Kutir will only provide technical support for the Product and not in relation to any other supporting hardware or software. Kutir may assist customer in getting technical support and warranty service for hardware sold by Kutir or its partners.

14. CUSTOMER'S PURCHASE ORDER

Unless otherwise agreed to in writing by Client and Kutir or its authorized reseller or distributor, the acceptance of any Order placed by Client for the Software is expressly made conditional upon Client's acceptance of and agreement to the terms and conditions contained herein and in the Order relating to the Software and Kutir agrees to furnish the Software only upon these terms and conditions and not on the terms and conditions contained in Client's Order. Any terms and conditions contained in Client's Order or other document issued by Client relating to this Agreement that are inconsistent with the terms and conditions hereof are hereby rejected.

15. GENERAL PROVISIONS

15.1. **Non-Disparagement.** Client shall not indirectly or directly, disparage Kutir or any affiliated company, including after termination of this Agreement.

15.2. **Amendments.** No amendment to any portion of this Agreement shall be binding upon the Parties unless in writing signed by duly authorized officers of both Parties.

15.3. **Assignment.** Neither party may assign the whole or any part of this Agreement without prior written consent by both parties. Notwithstanding the foregoing, either party may assign this Agreement or any of its rights or obligations hereunder to an affiliated entity or to a third party in connection with the sale of all or substantially all of the assigning party's business or assets relating to this Agreement, whether by merger, sale of stock or shares, sale of assets, or otherwise, without the prior written consent of the other party, provided that the assignee agrees to assume all of the assignor's obligations under this Agreement.

15.4. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, and supersedes and replaces any prior verbal agreements or other understandings, whether written or oral between the parties.

15.5. **Further Assurances.** The parties agree to execute such further documents and to perform such further acts, from time to time, as may be necessary or desirable to give full effect to the letter and spirit of this Agreement. Any changes to this Agreement must be authorized and agreed upon by both Parties and documented as amendments to this Agreement.

15.6. **Governing Law.** This Agreement and any rights or obligations thereunder shall be governed by and construed in accordance with the laws of the State of California. Any lawsuit relating to any matter arising under, or related to this Agreement, shall be commenced in Santa Clara County, California, and the parties irrevocably attorn to the jurisdiction of such Court. The parties further agree that this Agreement was entered into in the State of California. The *United*

Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or the transactions contemplated hereunder.

- 15.7. **No Waiver.** Any failure by any Party to exercise its rights, powers or remedies hereunder or any delay by such Party in the exercise of any of its rights and remedies hereunder shall not, to the extent permitted by law, operate as a waiver or variation of such or any other right or remedy hereunder.
- 15.8. **Survival.** The provisions of this Agreement that, by the express terms of this Agreement, will not be fully performed during the term of this Agreement, including Section 8, shall survive the termination of this Agreement to the extent applicable.
- 15.9. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" or similar format data file (Electronic Signature), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such Electronic Signature were an original thereof.
- 15.10. **Enurement.** This Agreement shall be binding upon and enure to the benefit of the respective Parties hereto, their heirs or legal representatives, successors and permitted assignees.