

# WEEDEN ENVIRONMENTS INC.

## Terms and Conditions of Sale

**1. Offer; Acceptance** These Terms and Conditions of Sale as they may be amended from time to time (collectively, "**Terms**") define the relationship of Buyer and Weeden Environments Inc. or its affiliate identified in the Order ("**Seller**") and apply to all sales of goods and/or services ("**Supplies**") by Seller to Buyer. Buyer acknowledges and agrees that these Terms are incorporated in, and are a part of, each quotation, purchase order, invoice, release, requisition, work order, shipping instruction, specification, and any other document, whether expressed verbally, in written form or electronic commerce, relating to the sale of Supplies by Seller to Buyer. These Terms do not constitute an acceptance of the terms and conditions set forth in any quotation, purchase order or purchase order revision ("**Order**"), offer or proposal made by Buyer. These Terms, together with any applicable Order(s), supersede all prior agreements, orders, quotations, proposals and other communications regarding the Supplies covered by such Order(s). To the extent that the description or specifications of Supplies in an Order conflict(s) with the description and specifications of such Supplies in these Terms, the Order shall govern. All descriptive specifications and other particulars have been given by way of identification only and the use of such information shall not constitute an express warranty, or a sale by description. Any additional or different terms and conditions proposed by Buyer, whether in Buyer's request for quotation, purchase order or otherwise, are expressly rejected by Seller, and shall not become part of the agreement of the parties regarding sale of the Supplies by Seller to Buyer. Seller shall not be bound by any unauthorized representation statement(s) or report(s) contained or incorporated in any Order. Any execution by Seller of any document (other than an Order) submitted by Buyer in connection with the purchase of Supplies does not constitute acceptance of or agreement to any terms and conditions in addition to or different from those contained in these Terms, but will constitute only acknowledgment of receipt of the document. In addition, notwithstanding any terms contained in any documents submitted by Buyer in connection with the purchase of Supplies, the acceptance of delivery by Buyer of Supplies will constitute a course of conduct constituting Buyer's agreement to these Terms, to the exclusion of any additional or different terms and conditions. These Terms are available and may be updated, from time to time, at [www.weedenenvironments.com](http://www.weedenenvironments.com). Notwithstanding anything to the contrary herein contained, Seller may, from time to time, change the Supplies (including without limitation their construction, design or specification(s)) without notice to or the consent of Buyer, provided that, such changes do not materially affect the nature or scope of the Supplies or the fees or any performance dates set forth in the applicable Order(s).

**2. Term of Order** Seller's obligations to sell Supplies to Buyer shall extend only to specific Orders accepted by Seller.

**3. Invoicing; Pricing; Taxes**

(a) The purchase price (the "**Price**") of the Supplies purchased by Buyer from Seller shall be set forth in the applicable Order(s). Payment will be made against invoices and documentation provided by Seller in compliance with these Terms, without adjustments or set-offs for any reason. If Buyer fails to make timely payment for any Supplies, Seller may terminate all or part of any Order, whether or not related to the late payment, as provided in Section 13 herein. When any payment is not made on or before its due date, Buyer shall pay a late charge on the sum outstanding, from the due date for receipt of payment to the actual date of receipt of payment, at a rate of one percent (1%) per month on the unpaid balance. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, legal fees. Whenever, in the judgment of Seller, the financial condition of Buyer does not justify the continuation of production or shipment on the specified terms of payment, or, Buyer fails to meet the requirements of Seller's credit policy, Seller may require full or partial payment in advance or require security or other assurance of performance on terms acceptable to Seller. Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Supplies, wherever located, and whether now existing or hereafter arising or acquired from time to time, in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under applicable laws.

(b) Seller may require Buyer to pay a deposit to Seller on execution of such Order. If not otherwise specified Buyer's shall pay the full amount or the balance owing (as applicable) on delivery of the Supplies in compliance with the terms of the Order. The invoice for such balance shall be issued at such time of delivery, and each such invoice shall be payable by Buyer upon receipt. Invoices pertaining to any installation and/or programming services forming the Supplies shall be promptly issued by the Seller and payable by the Buyer upon receipt. Payment will be made by negotiable check or wire transfer, on or before the due date. Payment will be made in United States dollars for Buyers located in the United States, or Canadian dollars for Buyers located in Canada, unless otherwise expressly requested in writing by Buyer and agreed to by Seller in writing.

(c) The Price(s) set forth in the Order are exclusive of all harmonized sales tax, goods and service tax, sales tax, use and excise tax, value added tax, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer, and Seller shall not be liable for any such charges, costs and/or taxes. Buyer shall be responsible for all such charges, costs and/or taxes, provided that Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel, or real or personal property or other assets. No "most favored nation" or similar pricing shall apply to the Order.

(d) The Price(s) set forth in the Order is exclusive of all freight charges. Seller is not liable for premium freight costs, unless specifically agreed to in advance, in writing, by Seller. Seller shall have the right to designate carriers and routings. Buyer will use all reasonable effort to unload, within two hours, and return Seller's transportation equipment to carrier within the tariff or contracted period free of demurrage and/or detention charges. Demurrage and/or detention charges on such equipment shall be paid by Buyer.

(e) The Price(s) set forth in the Order is exclusive of all charges in respect of dismantling, fitting replacement parts and reassembling any Supplies (as applicable).

If any transportation equipment provided by Seller arrives at destination in damaged condition, Buyer shall immediately notify carrier's agent at destination of such damage, and shall also make immediate telephone report thereof to Seller. During periods when transportation equipment provided by Seller is in the possession or under the jurisdiction of Buyer, Buyer is responsible for same and shall be liable for all damage to or destruction thereof, which is directly attributed to Buyer.

**4. Delivery; Risk of Loss** The Supplies will be delivered within a reasonable time after the receipt of the Order. Delivery of Supplies shall be F.O.B. Seller's facility or the applicable supplier's facility, as the case may be, in the event Supplies are shipped directly from their supplier(s). Risk of loss and title pass from Seller to Buyer upon delivery of the Supplies to the carrier at the Seller's facility or the applicable supplier's facility, unless otherwise agreed to in writing by Seller's authorized representative, and Seller shall not be liable for any delays, loss or damage in transit. Seller may, at its sole option, without liability or penalty, make partial shipments of Supplies to Buyer. If for any reason Buyer fails to accept delivery of any Supplies on the date fixed pursuant to Seller's notice that

the Supplies have been delivered, or if Seller is unable to deliver the Supplies on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (a) risk of loss to the Supplies shall pass to Buyer; (ii) the Supplies shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Supplies until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance). Additionally, Buyer shall ensure that, if applicable, a clear and suitable site is available and ready for the installation of equipment and that the site is readily accessible to normal transport. Except where otherwise specified, Seller shall not be responsible for labour or material for any builder's work, foundations, structural alterations, plumbing or electrical work.

**5. Packaging; Marking; Shipping; Disclosure; Special Warnings or Instructions**

(a) Seller agrees to: (i) properly pack, mark and ship, or cause to be properly packed, marked and shipped, Supplies in accordance with the requirements of Buyer, the involved carriers and the country of destination, (ii) route or cause to be routed the shipments in accordance with Buyer's instructions, (iii) label or tag, or cause to be labelled and tagged, each package according to Buyer's instructions, (iv) provide or cause to be provided papers with each shipment showing the Order number, and (v) promptly forward or cause to be forwarded the original bill of lading or other shipment receipt for each shipment in accordance with Buyer's instructions and carrier requirements.

(b) Seller agrees to comply with all federal, provincial and local laws and regulations pertaining to product content and warning labels.

(c) Provided Buyer is able to provide evidence which is reasonably satisfactory to Seller, Seller will reimburse Buyer only for direct costs incurred and paid by Buyer as a result of improper packing, marking, labeling, routing or shipping or any noncompliance with the requirements under Section 5(b). Otherwise Section 8 shall apply.

**6. Inspection; Non-Conforming Goods/Services; Audit** Buyer's inspection of Supplies, whether during manufacture, prior to delivery, or within a reasonable time after delivery, shall constitute acceptance. Seller's sole responsibility, at its option, shall be to replace Non-Conforming Supplies, or to credit or refund the Price for such Non-Conforming Supplies, provided that such Non-Conforming Supplies are identified and Seller receives written notice of same within thirty (30) days of delivery to Buyer. Buyer and Seller acknowledge and agree that "**Non-Conforming Supplies**" means only (a) Supplies shipped being different from what is identified in the applicable Order, or (b) Supplies' label or packaging incorrectly identifying its/their contents.

Supplies can only be returned with prior written permission of the Seller and must be in condition for resale. Opened, partially used or obsolete Supplies will not be accepted. Buyer shall ship, at Seller's expense and at Buyer's risk of loss, the Non-Conforming Supplies to Seller's facility. Any refunds or credits for Non-Conforming Supplies which are permitted by Seller to be returned shall only be processed on receipt by Seller of such Non-Conforming Supplies. If Seller exercises its option to replace Non-Conforming Supplies, Seller shall, after receiving Buyer's shipment of Non-Conforming Supplies, ship to Buyer, at Seller's expense and at Buyer's risk of loss, the replacement Supplies. Seller reserves the right to apply charges if disposal of any Non-Conforming Supplies is required. Buyer acknowledges and agrees that the remedies set forth in this Section are Buyer's exclusive remedies for the delivery of Non-Conforming Supplies, and Buyer has no right to return Supplies (including without limitation Non-Conforming Supplies) to Seller (other than expressly set out in these Terms).

**7. Limited Warranties** Seller warrants that for a period of: (a) one (1) year from the date of the applicable invoice for any goods constituting Supplies ("**Goods**"); and (b) forty-five (45) days from the date of the applicable invoice for any equipment installation services constituting Supplies ("**Labour**"); that such Supplies will be free from defects of material and workmanship. **SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS WHATSOEVER WITH RESPECT TO ANY OF THE SUPPLIES, WHETHER EXPRESS OR IMPLIED, BY OPERATION OF LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY CONDITION OR WARRANTY OF MERCHANTABILITY, ANY CONDITION OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY SPECIFICALLY DISCLAIMED. IN PARTICULAR, BUT WITHOUT LIMITING THE GENERALITY OF THE FOREGOING EXCLUSION, (i) IF THE SUPPLIES ARE MADE ACCORDING TO BUYER'S SPECIFICATIONS, AND/OR INSTALLED BY BUYER OR AT BUYER'S DIRECTION (I.E. BY LABOUR SUPPLIED BY BUYER), SELLER DOES NOT WARRANT ADEQUACY OF SUCH SPECIFICATIONS AND/OR INSTALLATION AND LABOUR, OR THAT THE SUPPLIES WILL PERFORM IN ACCORDANCE WITH SUCH SPECIFICATIONS OR FOLLOWING SUCH INSTALLATION BY BUYER OR AT BUYER'S DIRECTION (AS THE CASE MAY BE), (ii) IF ANY SUPPLIES FURNISHED HEREUNDER ARE MADE BY ANY SUPPLIER OTHER THAN SELLER OR A SUPPLIER EXPRESSLY AUTHORIZED BY SELLER, SELLER DOES NOT PROVIDE ANY WARRANTY WITH RESPECT TO SUCH SUPPLIES, AND (iii) SELLER DOES NOT WARRANT THAT THE SUPPLIES ARE IN COMPLIANCE WITH LAWS OF ANY COUNTRY.** Seller's sole obligation under the foregoing warranties will be limited to either, at Seller's option, replacing defective Supplies or refunding the Price paid for such Supplies previously paid by Buyer, and Buyer's exclusive remedy for breach of any of such warranties will be enforcement of such obligation of Seller. Any refunds or credits shall only be processed following receipt by Seller of the applicable defective Supplies. These warranties shall not extend to Supplies subjected to misuse, abuse, neglect or lack of adequate maintenance, damage (including, without limitation, if caused by power surge or interruption, lightning, any deviation from commonly accepted management practices, any programming of any Supplies, or any corrosion or material deterioration due to the addition of chemicals, sediments, minerals or other foreign elements), accident, or improper or unauthorized installation or use (including, without limitation, any installation not made in accordance with Seller's instructions, and any use or operation that varies significantly from Seller's instruction and/or intended use), or which have been altered by anyone other than Seller or its authorized representative. In addition, these warranties shall not extend to Supplies which are re-conditioned, re-furnished, discontinued and/or sold as "final sale". Seller shall neither be liable on: (i) any claim for defective Goods which is not made within one (1) year of the date of the invoice for such Goods; nor (ii) any claim for defective Labour which is not made within forty-five (45) days of the date of the invoice for such Labour. Under no circumstances shall Seller be liable for any costs, charges or losses sustained or incurred by Buyer in any way relating to Buyer's use of Seller's sprinkler systems, water usage alarms and/or related services.

**8. Remedies and Limitation of Liability** In the event Buyer claims Seller has breached any of its obligations under any Order, whether of warranty or otherwise, Seller may request the return of the Supplies and tender to Buyer the Price previously paid by Buyer, and in such event, Seller shall have no further obligation under the Order except to refund such Price upon redelivery of the Supplies. For greater certainty, Seller shall not be liable for any costs, charges or losses sustained or incurred by

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Buyer resulting directly or indirectly from defective materials, parts or workmanship in respect of the Supplies. No Supplies may be returned without Seller's written request. If Seller requests the return of the Supplies, the Supplies will be redelivered to Seller at Seller's expense by lowest cost mode of transportation. Seller reserves the right to inspect any claimed defect, or replace defective Supplies and perform any adjustment incident to satisfactory operation of the Supplies. In the event Buyer claims Seller has breached any of its obligations under the Order, whether of warranty or otherwise, and Seller has not delivered any Supplies to Buyer, Seller may tender to Buyer the Price previously paid by Buyer, and, in such event, Seller shall have no further obligation under the Order except to refund such Price previously paid by Buyer. The remedies contained in this and the immediately preceding Section shall constitute the sole recourse of Buyer against Seller for breach of any of Seller's obligations under the Order, whether of warranty or otherwise. **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES, LOST PROFITS, RECALL EXPENSES OR DIMINUTION IN VALUE, NOR SHALL SELLER'S LIABILITY ON ANY CLAIM FOR DAMAGES ARISING OUT OF OR CONNECTED WITH THE ORDER OR THE MANUFACTURE, SALE, DELIVERY OR USE OF THE SUPPLIES EXCEED THE PRICE OF THE SUPPLIES PREVIOUSLY PAID BY BUYER TO SELLER.** Seller shall have no liability on any claim for damages arising out of or connected with the Order, or the manufacture, sale, delivery or use of the Supplies, where such Supplies are manufactured in accordance with specifications supplied by Buyer. Any warranty rights which Seller may have relating to any Supplies provided by other suppliers will be assigned to Buyer upon request, at Buyer's sole cost and expense. Without limiting the generality of Section 14 of these Terms, Seller shall not be liable for failure to perform its obligations under the Order resulting directly or indirectly from circumstances beyond Seller's reasonable control. For greater certainty, if Seller's performance of its obligations under these Terms is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants or employees, Seller shall not be deemed in breach of its obligations under these Terms or otherwise liable for any costs, charges or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay. **IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE SUPPLIES SOLD HEREUNDER.**

**9. Indemnification** Buyer shall defend and indemnify Seller against, and hold Seller harmless from, any and all claims and liabilities, including reasonable legal fees, arising out of, connected with, or resulting from the Supplies, including but not limited to, the design, manufacturing, selection, delivery, sale, possession, storage, use, operation or disposition of the Supplies. Seller's entire liability for Supplies is limited as set forth in Sections 7 and 8 above.

**10. Insurance** Buyer shall, at its own expense, maintain and carry in full force and effect, commercial general liability insurance with occurrence and aggregate limits which are commercially reasonable and reflect industry standards.

**11. Compliance with Laws** Seller, and any Supplies supplied by Seller, shall be in substantial compliance with all material applicable laws, including rules, regulations, orders, conventions, ordinances and standards, that relate to the manufacture, use, labeling, transportation, importation, exportation, licensing, approval or certification of the Supplies, including laws relating to environmental matters, hiring, wages, hours and conditions of employment, subcontractor selection, discrimination, occupational health or safety, and motor vehicle safety. The provisions of Sections 7 and 8 shall apply to any breach of Seller's obligations hereunder.

### **12. Insolvency; Review of Financial Condition; Related Matters**

(a) This Order may be terminated immediately by Seller without liability to Buyer for any of the following events, or any other comparable events: (i) Buyer becomes insolvent, (ii) Buyer files a voluntary petition in bankruptcy, (iii) an involuntary petition in bankruptcy is filed against Buyer, (iv) a receiver or trustee is appointed for Buyer, (v) Buyer needs accommodations from Seller, financial or otherwise, in order to meet its obligations under this Order, (vi) Buyer executes an assignment for the benefit of creditors, (vii) Buyer fails to meet the credit underwriting standards of Seller's credit policy, or (viii) Buyer is unable to promptly provide Seller with adequate reasonable assurance of Buyer's financial capability to perform any of Buyer's obligations under the Order on a timely basis. In the event that this Order is not terminated in accordance with the immediately preceding sentence, upon the occurrence of an event described in the immediately preceding sentence, Seller may make equitable adjustments in the Price, payment terms, and/or delivery requirements under this Order as Seller deems appropriate to address the change in Buyer's circumstances.

(b) Seller, or a third party designated by and acting on behalf of Seller, may at any time review the overall financial condition of Buyer and its affiliates, and Buyer shall fully cooperate in such review and shall make its financial managers available for discussions during reasonable business hours and upon reasonable notice. Seller and any such third party shall keep confidential any non-public information about Buyer and its affiliates obtained in such financial review and shall use such information only for purposes of such financial review, except as otherwise needed to enforce the Order.

**13. Termination** In addition to any other rights of Seller to cancel or terminate any Order, Seller may, at its option and in its sole discretion, terminate all or any part of any Order at any time and for any reason by giving at least fourteen (14) days written notice to Buyer. Seller shall have no additional obligations or liabilities to Buyer whatsoever as a result of any such termination.

**14. Force Majeure** Any delay or failure of either party to perform its obligations shall be excused if, and to the extent, that it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence. By way of example, this includes acts of God, restrictions, prohibitions, priorities or allocations imposed by or actions taken by any governmental authority (whether valid or invalid), embargoes, fires, floods, windstorms, severe weather, explosions, riots, natural disasters, wars, sabotage, inability to obtain power, change in cost or availability of materials based on market conditions, supplier actions, contract disputes or any labour strike or other labour disruption applicable to Seller or any of its subcontractors or suppliers, or court injunction or order. For greater certainty, Buyer's inability to perform as a result of, or delays caused by, Buyer's insolvency or lack of financial resources shall be deemed to be within Buyer's control. Written notice of such delay (including the anticipated duration of the delay and the time the delay will be cured) must be given to Seller as soon as possible (but no more than thirty (30) days after occurrence).

**15. Intellectual Property** Any technical or confidential information disclosed by Seller pursuant to these Terms and/or the terms of any Order, whether or not marked as confidential, is proprietary and may not be used by Buyer or disclosed by Buyer to any other entity without the written consent of Seller. Any technical or confidential information owned or developed by Seller, including but not limited to, patents, trademarks, copyrights, trade secrets, know-how and proprietary information, and used under this contract shall remain the sole and exclusive property of Seller. Except as authorized in writing by and on terms acceptable to Seller, Buyer shall have no right to disclose any technical or confidential information to any third party or to have any third party make any goods that use the technical or confidential information owned or developed by Seller.

All inventions, discoveries, improvements, processes, designs, ideas and software (whether or not patentable) developed in whole or in part by Seller, at any time, will be the sole property of Seller to the extent permitted by applicable law, unless they are the subject of a separate written agreement specifically providing that Seller is not the sole owner thereof. Seller grants no license(s), express or implied, to such inventions, discoveries, improvements, processes, designs, ideas and software, unless they are the subject of a separate written agreement specifically providing that Seller grants a license thereto.

### **16. Governing Law; Jurisdiction; Arbitration**

(a) These Terms are to be construed according to the laws of the Province of Ontario and the federal laws of Canada applicable therein, without giving effect to any choice or conflict of law provision or rule (whether of the Province of Ontario, of Canada or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Province of Ontario and/or of Canada.

(b) Subject to Section 16(c) below regarding arbitration, any litigation arising from or relating to this Order may be brought only in provincial or federal courts located in Ontario and each of the parties agree to exclusive venue and jurisdiction of said courts.

(c) Except for actions seeking injunctive relief, all disputes between the parties relating to these Terms or any Order shall be resolved exclusively by arbitration. The arbitration shall take place in Ontario. The arbitrator shall be appointed by unanimous agreement of the parties to the arbitration. In the event unanimous agreement is not reached within ten (10) business days of one party giving the other written notice of arbitration, either party may seek an order appointing the arbitrator from the Superior Court of Justice in Toronto pursuant to the provisions of the *Arbitration Act*, 1991 (Ontario). The arbitration shall be conducted in accordance with the Rules of the Canadian Arbitration Association. The arbitrator will issue written findings of fact and conclusions of law, and may award legal fees and costs to the substantially prevailing party. All arbitration proceedings shall be confidential, except to the extent that disclosure is necessary to enforce an arbitration award in a court of competent jurisdiction. A judgment of any court of competent jurisdiction may be entered upon the award. Any arbitration hereunder shall be subject to the provisions of the *Arbitration Act*, 1991 (Ontario), except as varied or excluded by this subsection.

### **17. Entire Agreement; Modifications; No Implied Waiver**

(a) Except as described in Section 1 or any Order, these Terms constitute the entire agreement between Seller and Buyer and supersede all prior oral or written representations and agreements. If these Terms conflict with the terms of any Order, the Order will control.

(b) Seller may modify these Terms with respect to future Orders at any time by posting revised Terms to its internet web site at [weedenenvironments.com](http://weedenenvironments.com) or at such other internet web site as is specified in writing by Seller to Buyer, and such revised Terms will apply to all Orders and Order amendments issued thereafter. It is the responsibility of Buyer to review and obtain a copy of the current version of the Terms. The Terms that are applicable to the Order shall be the version of the Terms that is in effect on the date of the Order.

(c) No waiver by Seller of any of the provisions of these Terms or any Order is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these Terms or any Order operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**18. Assignment** Buyer shall not assign any of its rights or delegate any of its obligations under these Terms without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under these Terms. These Terms are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.

**19. Severability** If any term or provision of these Terms is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.

**20. Survival** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of these Terms or any applicable Order.

**21. Relationship of the Parties** The relationship between the parties is that of independent contractors. Nothing contained in these Terms or any Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**22. Notice and Contact** Each party shall deliver all notices, requests, questions, consents, claims, demands, waivers and other communications as required under these Terms and/or any applicable Order(s) to the other party at the addresses and/or other contact information set forth in the applicable Order(s). Notices required to be delivered in writing shall be delivered by personal delivery, nationally recognized overnight courier (with all fees prepaid), facsimile or email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in these Terms and/or the applicable Order(s), notice is effective only (a) upon receipt by the receiving party and (b) if the party giving the notice has complied with the requirements of this Section.