

JP3 Data Subscription Terms and Conditions

1. The equipment ("Equipment") required for the performance of the Services will be provided, commissioned and maintained by JP3 as part of the Services at no additional charge.
2. Customer is responsible at its own expense for the physical installation, power/signal connections, sampling fees and other responsibilities set forth in the JP3 customer check list ("Customer Check List"). The Equipment will be installed at the Customer location ("Location") specified on the Order.
3. Customer hereby authorizes and will enable JP3 to physically and remotely access the Equipment on Customer's site as reasonably needed to perform this Agreement. JP3 will comply with Customer's reasonable security procedures for such access.
4. The price offering set forth herein shall remain valid for no more than 60 days.

SALES TAX: Sales tax will be added to all invoices unless a direct pay certificate or tax exempt certificate is on file with Accounts Receivable.

Services Agreement

This Data Subscription Services Agreement ("Agreement") effective as of _____ ("Effective Date") is made between JP3 Measurement, LLC, with offices at 4109 Todd Lane, Austin, Texas 78744 ("JP3") and _____ with offices at _____ ("Customer").

WHEREAS, JP3 develops, manages, maintains, markets and provides value-added data and related information ("Licensed Information") and associated JP3 Equipment ("Equipment") and services ("Services") that support Customer's use of the Licensed Information (collectively, the Licensed Information, Equipment and Services are referred to herein as "Data Subscription Service"); and

WHEREAS, Customer desires to license, purchase and use the Data Subscription Service as permitted by this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Data Subscription Service

1.1 Data Subscription Service. The Data Subscription Services include the Licensed Information, Equipment, Professional Services, Cloud Services and Maintenance and Support Services specified and described in one or more JP3 order forms ("Order") executed by the parties for the purchase of Data Subscription Services and that reference this Agreement. The initial JP3 Data Services Contract is attached hereto as Exhibit A. Each Order will incorporate the terms of this Agreement by reference and will be deemed a part hereof. Any preprinted terms and conditions of any purchase orders or acknowledgements that are inconsistent with or in addition to the terms and conditions of this Agreement and an executed Order will not apply.

1.2 Grant of Rights. In consideration of the applicable fees paid or payable by Customer hereunder, JP3 will provide to Customer the Data Subscription Services on a non-exclusive, non-transferable (except as permitted in accordance with Section 14.5 below), and non-sublicenseable basis: (a) during the relevant subscription or contract term specified in the applicable Order, (b) internally for Customer's own internal purposes including, if applicable, to develop and use Output (defined below), and not for resale or license to third parties, and (c) in accordance with the additional Data Subscription Services rights and limitations set forth in the applicable Order. Other rights, terms and restrictions specified in the applicable Order are incorporated by reference into this Section 1.2. Customer and Customer's own employees, consultants, contractors and authorized agents ("Personnel") may use the Data Subscription Services only for the benefit of Customer, and Customer will be responsible for the acts and omissions of its Personnel with respect to this Agreement, the Orders and the Data Subscription Services.

1.3 Output. Customer will have the right to use the output from the Data Subscription Services ("Output") to develop or create any derivative analytics, metrics, tables, and other compilations solely for Customer's internal business purposes. In no event will Customer resell or license the Output to any third parties for use by such third parties; provide, however, Customer may disclose the Output to third parties in furtherance of Customer's internal business purposes.

1.4 No Other Rights. Except as expressly set forth in this Agreement, no additional rights are granted to Customer. JP3 hereby reserves all rights not expressly granted to Customer under this Agreement.

2. Restrictions. Customer will not directly or indirectly, nor authorize any of its Personnel or any third party to, do any of the following: (a) copy, modify or create derivative works of the Data Subscription Services, except as necessary to develop Output as permitted under this Agreement, (b) publish, sublicense, sell, market or distribute the Data Subscription Services; (c) reverse engineer, decompile, disassemble or otherwise attempt to gain access to the source code form of the Data Subscription Services; (d) use the Data Subscription Services or associated documentation in violation of any applicable law, including export laws; (e) remove any proprietary notices from the Data Subscription Services, documentation or any other JP3 materials furnished or made available hereunder; (f) use or access the Data Subscription Services in order to (1) build a competitive product or service, or (2) copy any features, functions or graphics of the Data Subscription Services; (g) make the Data Subscription Services available to anyone other than Customer's Personnel for the sole benefit of Customer; (h) sell, resell, rent or lease the Data Subscription Services, including using on a service bureau or time sharing basis; (i) interfere with or disrupt the integrity or performance of the Data Subscription Services or any data contained therein; (j) attempt to gain unauthorized access to the JP3 platform or its related data, systems or networks; (k) use the Data Subscription Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third party privacy rights; (l) publish or disclose to third parties any evaluation of the Data Subscription Services without JP3's prior written consent; (m) publish or disclose to third parties any data or information on Customer's results from using the Data Subscription Services, without JP3's prior written consent; (n) perform vulnerability, load or any other test of the JP3 platform without JP3's prior written consent. Customer is responsible for compliance by each of its Personnel with the terms of this Agreement.

3. Delivery. As specified in the applicable Order, JP3 will: (a) install at Customer's site the applicable Equipment necessary for commissioning, startup and performance of the Data Subscription Services; (b) provide the Services necessary for commissioning, startup, monitoring and maintenance of the Data Subscription Services; and (c) provide the service level structure and monthly reporting documenting performance of the Data Subscription Services. JP3 will deploy reasonable security precautions consistent with industry standards intended to protect

against unauthorized access to any Customer data stored on the JP3 platform. However, Customer acknowledges that, notwithstanding the security precautions deployed by JP3, the use of, or connection to, the Internet provides the opportunity for unauthorized third parties to circumvent such precautions.

4. Equipment

4.1 The Equipment required for the performance of the Data Subscription Services will be provided, commissioned and maintained by JP3 as part of the Data Subscription Services at no additional charge.. Customer will not change or remove any insignia or lettering which is on the Equipment indicating JP3's ownership thereof, and at any time during the term of this Agreement or the applicable Order, upon request of JP3, Customer will affix to the Equipment, in a prominent place, labels, plates or other such markings supplied by JP3 stating that the Equipment are owned by JP3. Without the prior written consent of JP3, Customer will not make any alterations, additions or improvements to the Equipment.

4.2 Customer is responsible at its own expense for the physical installation and power/signal connections, and may be responsible for sampling fees, lab fees and other responsibilities set forth in the JP3 data services contract agreement ("Data Services Contract Agreement") or Order. The Equipment will be installed at the Customer location ("Location") specified on the Data Services Contract Agreement or at Order. Customer will not move or transfer the Equipment to any other location without JP3's prior written consent. Upon completion of commissioning of the equipment, JP3 will provide Customer with notice that the Data Subscription Services are active.

4.3 Customer hereby authorizes and will enable JP3 to physically and remotely access the Equipment on Customer's site as reasonably needed to perform this Agreement. JP3 will comply with Customer's reasonable security procedures for such access.

4.4 Upon initial receipt of the Equipment, Customer will inspect the Equipment and advise JP3 immediately in writing of any damage to the Equipment. As between JP3 and Customer, risk of loss, damage and insurance responsibilities for the Equipment pass from JP3 to Customer upon delivery of the Equipment to Customer and will remain with Customer until the

Equipment is returned to JP3. During the term of this Agreement, Customer will procure and continuously maintain and pay for all risk insurance against loss of and damage to the Equipment for not less than the market value of the Equipment.

5. Customer Obligations. Customer will provide JP3 with access to Customer's site where the Equipment are to be installed, the Customer data and materials required for the installation, commissioning and performance of the Data Subscription Services, and designated Customer Personnel as reasonably required for JP3 to provide the Data Subscription Services, all as specified in the applicable Order or which would otherwise be reasonably understood to be necessary or required for JP3 to perform its obligations under this Agreement. Customer will not disconnect the systems enabling the provision of the Data Subscription Services, or block or interfere with the Internet connection necessary for the provision of the Data Subscription Services. Customer understands that JP3's performance is dependent in part on Customer's actions and performance of certain obligations including, without limitation, providing JP3 with access, data and materials as described in this Section and the Customer Check List. Accordingly, Customer will timely perform its obligations hereunder. Any dates or time periods relevant to performance by one party will be extended to account for any delays due to the delaying party; provided, however, any delays caused by Customer will not extend the relevant subscription or contract term specified in the applicable Order which will commence upon the earlier of the actual commissioning of the Data Subscription Services or the delivery date specified in the applicable Order.

6. Fees and Payment Terms

6.1 Payment. JP3 will render periodic invoices, or charge your credit card if you have provided such authorization to JP3, related to the fees and expenses associated with the provision of Data Subscription Services to Customer in accordance with the prices and schedules for payment set out in the applicable Order.

6.2 Payment Terms. In consideration of the provision of the Data Subscription Services, unless otherwise set forth in the applicable order, Customer will pay JP3 the total fees and expenses for Data Subscription Services within 30 days after receipt of JP3's invoice for such Data Subscription Services, or JP3 may charge your credit card upon the applicable payment due

date if you have provided such authorization to JP3. Customer will pay all amounts due under this Agreement in U.S. Dollars.

6.3 Taxes. All amounts payable under this Agreement are exclusive of all sales, use, value-added, withholding, and other taxes and duties. Customer will pay all taxes and duties assessed in connection with this Agreement by any authority, except for taxes payable on JP3's net income. Customer will promptly reimburse JP3 for any and all taxes or duties that JP3 may be required to pay on Customer's behalf in connection with this Agreement or its performance. This provision does not apply to any taxes for which Customer is exempt and for which Customer has furnished JP3 with a valid tax exemption certificate authorized by the appropriate taxing authority.

6.4 Expenses. Customer will reimburse JP3 for any expenses incurred by JP3 in connection with performing any Services which are in addition to the Data Subscription Services specified in the applicable Order and pre-approved by Customer.

6.5 Overdue Amounts. If at any time Customer is delinquent (including during any grace periods) in the payment of any invoice, JP3 may, in its discretion, suspend Data Subscription Services under this Agreement. Except for invoices disputed in good faith, all past due amounts will incur interest at a rate equal to the lower of 1.5% per month or the highest rate permitted by law. If JP3 is required to bring legal action to collect delinquent accounts, then Customer will pay reasonable attorneys' fees and costs of suit.

6.6 Additional Work. Any additional work mutually agreed by the parties in writing which is outside the scope of the Data Subscription Services specified in an applicable Order will be invoiced to Customer at JP3's then-current consulting rates on a time and materials basis, or at the rates mutually agreed in writing by the parties.

7. Confidentiality. Each party will hold the other party's confidential information ("Information") in confidence, not disclose such Information to third parties, and not use such Information for any purpose except as authorized hereunder. Each party will promptly (within 15 days after termination) return to the other party or, at the other party's request, destroy, such other party's Information in its possession or control. Because damages alone may not be

adequate compensation for loss of Information, each party, in addition to any other legal and equitable rights it may have, will be entitled to an injunction against the breach or threatened breach of this Section by the other party. Information does not include information that: (a) was rightfully in the receiving party's possession at the time of disclosure without a confidentiality obligation; (b) becomes part of the public knowledge not as a result of any action or inaction of the receiving party in breach of this Agreement; (c) is disclosed to the receiving party by a third party not in violation of any obligation of confidentiality; or (c) is independently developed by the receiving party without use of or reference to the other party's Information. In the event of any inconsistency between this Agreement and the confidentiality provisions of any other written agreement entered into by and between the parties with respect to this subject matter, the most protective confidentiality terms will apply.

8. Term and Termination

8.1 Term. This Agreement is effective as of the Effective Date set forth above, and will continue in full force and effect until the earlier of (a) the termination or expiration of all Orders executed by the parties pursuant to this Agreement, or (b) the termination of this Agreement as otherwise provided herein. Each Order executed by the parties hereunder will clearly set forth the relevant subscription or contract term for the Data Subscription Services covered by such Order. Agreement will automatically renew for one year at the end of the contract term of the initial Agreement and each year thereafter. Termination by either party requires written notice of termination 90 days prior to the renewal date.

8.2 Termination

(a) Termination for Breach. In the event that either party materially breaches any term of this Agreement or any Order and fails to cure such breach within 30 days of its receipt of written notice thereof from the non-breaching party specifying the nature of such material breach, then the non-breaching party may immediately terminate this Agreement upon written notice to the breaching party.

(b) Immediate Termination. Either party may terminate this Agreement and all Orders immediately upon delivery of written notice if (i) the other party makes an assignment for the

benefit of creditors, or (ii) the other party becomes the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets.

8.3 Effect of Termination. Upon the expiration or termination of this Agreement or any Order, as applicable, the Agreement, or any Order, as applicable, will expire and the following will apply:

(a) Use of the Licensed Information. Customer (i) will immediately discontinue all use, commercial or otherwise, of the applicable Data Subscription Services, (ii) will discontinue all access to and use of the Licensed Information, and (iii) will return or destroy the Licensed Information from its computer storage or any other media, including online and off-line libraries to prevent any further access or use. Specifically, Customer will not use the Licensed Information to generate new or additional Output or for any other purpose. For clarification, nothing in this Section prohibits Customer's right to retain and use internally any Output generated before the expiration or termination of this Agreement or applicable Order. Upon request of JP3, Customer will provide written confirmation of its compliance with this Section. Notwithstanding anything to the contrary herein, it is understood and agreed by JP3 that Customer's computer systems may automatically back-up data and information, including without limitation, the Licensed Information disclosed and licensed under this Agreement. To the extent that such computer back-up procedures create such copies of the Licensed Information, Customer may retain such copies for the period it normally archives backed-up computer records, provided that the automatically backed-up copies of the Licensed Information are not accessible for use, will be overwritten in the normal course of Customer's ongoing back-up procedures, and are subject to the terms and conditions of this Agreement. For the avoidance of doubt, Customer will not use the backed-up copies of the Licensed Information for any purposes, commercial or otherwise, and Customer will limit access to such backed-up copies of the Licensed Information to those employees who have a need-to-know.

(b) No Further Updates. JP3 will cease to provide Customer with any further updates to the affected Licensed Information.

(c) Payment. An Early Termination Fee of \$100,000 or the remaining contract value, whichever is lower, will be applied to the unbilled customer balance upon any termination of

this Agreement before the end of the agreed contract term. Customer will promptly pay to JP3 all undisputed (in good faith) amounts due to JP3 hereunder through the effective date of termination of this Agreement or the applicable Order.

(d) Return of Equipment. Upon the expiration or earlier termination of this Agreement or the applicable Order: (i) Customer will on or before 15 days after such expiration or termination either return the Equipment at Customer's expense or allow JP3 to remove the Equipment, in good repair, condition and working order, ordinary wear and tear excepted. In the event Customer fails to timely return or make available to JP3 such Equipment, JP3 may issue an invoice to Customer for the Equipment at the then-current market price, and payment therefor will be due upon receipt of such invoice. In the event of loss or damage of any kind to returned Equipment, Customer will pay JP3's usual charges for such repair or replacement or if such Equipment is determined by JP3 to be lost, stolen, destroyed or damaged beyond repair, invoiced for the market price.

8.4 Nonexclusive Remedy. Except as otherwise set forth in this Agreement, termination of this Agreement by either party will be a nonexclusive remedy and will be without prejudice to any other right or remedy of such party. Termination of this Agreement will not relieve Customer of its obligation to pay all fees and expenses that accrued before such termination.

8.5 Survival. The provisions of Sections 2, 6, 7, 8.3, 8.4, 8.5, 9, 10, 11, 12 and 14 hereof, and all other terms and conditions of this Agreement and Orders which by their nature are intended to survive, will survive the expiration or termination of this Agreement, and/or any applicable Orders for any reason.

9. Warranties and Disclaimer

9.1 JP3 Warranties. JP3 warrants to Customer that: (a) it has full and complete authority to enter into this Agreement and to provide the Data Subscription Services to Customer in accordance with this Agreement; (b) by executing this Agreement JP3 does not violate agreement to which JP3 is a party or is bound; (c) the Data Subscription Services will be performed in a professional and workmanlike manner consistent with generally accepted industry standards. Customer's sole remedy for breach of the foregoing Data Subscription

Services warranty is for JP3 to re-perform, at no additional cost, the Data Subscription Services at issue; and (d) its providing the Data Subscription Services to Customer hereunder does not infringe any United States patent, copyright or other intellectual property right of a third party. Customer's sole remedy for breach of the foregoing non-infringement warranty is the intellectual property infringement indemnity in Section 11.1 below.

9.2 Disclaimer. EXCEPT AS EXPRESSLY WARRANTED BY JP3 IN SECTION 9.1, THE DATA SUBSCRIPTION SERVICES ARE PROVIDED "AS IS" WITHOUT ANY OTHER WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR INFRINGEMENT OF THIRD PARTY RIGHTS.

10. Ownership. This is an Agreement for services. As between JP3 and Customer, the Data Subscription Services will at all times remain the sole and exclusive property of JP3 or of JP3's third party data providers. Customer acknowledges and agrees that it has no rights whatsoever in the Data Subscription Services, with the exception of those limited rights as expressly set forth in this Agreement. Further, all right, title and interest, including without limitation all intellectual property and proprietary rights, in and to the Equipment provided under this Agreement are owned by JP3 or its suppliers. Title to the Equipment will remain the personal property of JP3 and title is and will remain vested in JP3. Customer will not do anything contradictory to affect JP3's title, or pledge, assign, sell or otherwise dispose of, encumber or suffer a lien or encumbrance upon or against any interest in the Equipment. The Equipment includes certain proprietary software loaded or embedded on the Equipment. No license is granted to Customer for such software and Customer will not decompile, disassemble or reverse engineer the software. All Output generated by Customer's use of the Data Subscription Services will be owned by JP3. JP3 will not disclose such Output in a way that identifies it specifically with Customer. JP3 hereby grants to Customer a perpetual and non-exclusive license to use such Output in connection with Customer's business and as authorized in Section 1.3 above.

11. Indemnification

11.1 JP3's Indemnification of Customer. JP3 will defend, indemnify and hold harmless Customer, and its employees, agents, representatives, officers and directors acting within their

capacity (collectively, the “Customer Indemnitees”), from and against any loss, damage, claim, cost or expense whatsoever, including any and all incremental out-of-pocket costs, including, without limitation, all reasonable legal and accounting fees (collectively a “Loss”), awarded against Customer Indemnitees or agreed upon by JP3 in settlement pursuant to any claim, demand, action, suit, litigation, charge, complaint, prosecution or other proceeding of any nature or kind whatsoever (collectively a “Claim”) that may be made or asserted against Customer by a third party to the extent alleging that the Data Subscription Services infringe the intellectual property rights of the third party (“IP Claim”). If a Claim under this Section 11.1 is brought or threatened, or JP3 believes is likely to occur, JP3 may, at its option, (a) procure for Customer the right to use the Data Subscription Services, or (b) replace the Data Subscription Services with non-infringing products and services that are functionally equivalent in all material respects, or (c) if options (a) and/or (b) above cannot be accomplished despite JP3's commercially reasonable efforts, then JP3 may terminate this Agreement or Order with respect to such Data Subscription Services, and upon return or cessation of use of the Data Subscription Services, issue a pro-rata refund or credit to Customer for any prepaid, unused fees for the Data Subscription Services. Notwithstanding the foregoing, JP3 has no obligation for any IP Claim to the extent based on: (i) modifications to the Data Subscription Services not made by JP3, (ii) use of the Data Subscription Services in combination with any product, service, method, system, data, or apparatus not provided by JP3, if the infringement would have been avoided in the absence of the combination, (iii) Customer's use of the Data Subscription Services in violation of this Agreement, or (iv) use of any version other than a current release of the Data Subscription Services, if infringement would have been avoided by use of a current release made available to Customer, after being informed by JP3 and provided, at no additional charge, with modifications that would have avoided the alleged infringement and reasonable time to implement such modifications. Notwithstanding the foregoing, JP3 will have no liability under this Section for any Loss against which Customer has indemnified JP3 pursuant to Section 11.2. This Section states JP3's sole obligation and liability, and Customer's sole and exclusive remedy, regarding claims of infringement.

11.2 Customer Indemnification of JP3. Customer will defend, indemnify and hold harmless JP3, and its employees, agents, representatives, officers and directors acting within their capacity (collectively, the “JP3 Indemnitees”), from and against any Loss awarded against JP3 Indemnitees or agreed upon by JP3 in settlement pursuant to any Claim that may be made or asserted against JP3 by a third party to the extent arising out of (a) an IP Claim based on Customer's modifications to the Data Subscription Services, (b) use of the Data Subscription Services in combination with any product, service, method, system, data, or apparatus not provided by JP3, if the infringement is caused by the combination operation or use, (c) any use

of the Data Subscription Services by Customer not authorized by this Agreement or any applicable Order, (d) use of Customer Output, or (e) Customer's breach of any of the terms of this Agreement or any applicable Order. Notwithstanding the foregoing, Customer will have no liability under this Section for any Loss against which JP3 has indemnified Customer pursuant to Section 11.1.

11.3 Indemnity Process. The party seeking to be indemnified will give prompt written notice to the other party of the claim against which it seeks to be indemnified and will provide the indemnifying party, at the indemnifying party's expense, with the assistance reasonably necessary for the defense and settlement of the claim. The failure by the indemnified party to timely furnish to the indemnifying party any notice required to be furnished under this Section will not relieve the indemnifying party of its obligations under this Section 11, except to the extent such failure materially and adversely prejudices the ability of the indemnifying party to defend such matter. The indemnifying party will have control of the defense and settlement of any such claim. The indemnifying party will not be liable for any settlement of an action effected without its written consent (which consent will not be unreasonably withheld or delayed), nor will the indemnified party settle any such action without the written consent of the indemnifying party (which consent will not be unreasonably withheld or delayed); subject to the foregoing, the indemnified party may at its expense participate in the defense and settlement of such claim with counsel of its own choosing. The indemnifying party will not conclude any settlement which requires any action or forbearance from action by the indemnified party without the prior approval of the indemnified party.

12. Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, UNDER NO CIRCUMSTANCES WILL JP3 HAVE ANY OBLIGATION OR LIABILITY TO CUSTOMER FOR ANY CLAIM, INJURY, OR DAMAGE RELATING TO, ARISING OUT OF, OR RESULTING FROM THE INACCURACY OF THE DATA SUBSCRIPTION SERVICES. FURTHER, NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT WILL CUSTOMER, JP3 OR ANY THIRD PARTY DATA PROVIDER BE LIABLE FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE AND HOWEVER ARISING, INCLUDING BUT NOT LIMITED TO LOST INCOME OR LOST REVENUE, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY, REGARDLESS OF WHETHER OR NOT THE PARTY KNOWS, SUSPECTS OR HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. IN ADDITION, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR DAMAGES IN EXCESS OF THE AGGREGATE FEES PAID OR PAYABLE BY CUSTOMER TO JP3 UNDER THIS AGREEMENT IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH

THE CAUSE OF ACTION GIVING RISE TO SUCH LIABILITY AROSE. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 12 WILL NOT APPLY TO BREACHES OR VIOLATIONS OF SECTIONS 1, 2 OR 8.3(d) HEREOF, OR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, OR WHERE THE CONDUCT RESULTING IN THE LIABILITY IS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO CONSTITUTE GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD.

13. Force Majeure. Neither party will be liable for any delay or failure to perform any of the acts required by this Agreement (with the exception of any obligations to pay money) when such delay or failure results from an event of force majeure beyond the reasonable control of such party. The time for performance of any such act so delayed by such causes will be extended for no longer than the period in which such event of force majeure continues; provided, however, that the party so affected (a) promptly provides written notice to the other party of the occurrence of such event of force majeure in reasonably complete detail, and (b) uses commercially reasonable efforts to avoid or remove such event of force majeure and complete the performance of the act so delayed. As used herein, "event of force majeure" will mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, plague, lightning, fire, storm, flood, earthquake, explosion, governmental action, governmental delay, restraint or inaction, unavailability of equipment or supplies and any other cause, whether of a kind specifically enumerated above or otherwise which is not reasonably within the control of the party claiming suspension.

14. Miscellaneous

14.1 Notices. Unless otherwise provided herein, any notice, request, or other communication will be given in writing under this Agreement and will be deemed to have been given by either party to the other party (a) upon the date of receipt, if hand delivered, (b) two business days after deposit in the U.S. mail if mailed to the other party by registered or certified mail, properly addressed, postage prepaid, return receipt requested, (c) one business day after deposit with a national express courier for next business day delivery, or (d) upon the date of electronic confirmation of receipt of a facsimile or email transmission. Notice will be sent to the address for each party set forth on the first page of this Agreement, or at such other address as will be

given by either party to the other in writing. Notices to JP3 will be addressed to the attention of: CFO. Notices to Customer will “cc” Customer’s Legal Department.

14.2 Independent Contractors. The parties are independent contractors. Nothing contained herein or done pursuant to this Agreement will constitute a joint venture, partnership or agency for the other for any purpose or in any sense whatsoever and neither party will have the right to make any warranty or representation to such effect.

14.3 Amendments, Modifications and Waivers. Any amendment to this Agreement, or any waiver of any provision in this Agreement, will be in writing and signed by authorized representatives of each party. An individual waiver of a breach of any provision of this Agreement requires the written express consent of the party whose rights are being waived and such waiver will not constitute a subsequent waiver of any other breach of that provision or any other provision, condition or requirement. The failure of either party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, will in no way be construed to be a present or future waiver of such provisions, nor in any way affect the validity of either party to enforce each and every such provision thereafter.

14.4 Severability. If any one or more of the provisions of the Agreement or any applicable Order will for any reason be held to be invalid, illegal or unenforceable, the same will not affect any of the other portions of this Agreement or the applicable Orders. The parties agree to negotiate in good faith an enforceable substitute provision for any invalid or unenforceable provision that most nearly achieves the intent and economic effect of such provision.

14.5 Assignment. Except in connection with a change of control, change in majority ownership, or the sale of greater than 50% of the Customer’s business assets, or to a Customer affiliate, Customer will not assign, delegate or transfer, by operation of law, merger, sale or otherwise, this Agreement, any Order or any of the rights or obligations hereunder, without the express prior written consent of JP3, which consent will not be unreasonably withheld if the assignee, delegate, or transferee is not a direct competitor of JP3. Any attempted assignment or delegation in violation of the foregoing is void. This Agreement is binding upon the parties and their successors and permitted assigns.

14.6 Governing Law. This Agreement and the applicable Orders will be governed by and construed in accordance with the laws of the State of Texas, without regard to any conflict of laws provisions thereof.

14.7 Attorneys' Fees. If any action is brought to enforce any provision of this Agreement or to declare a breach of this Agreement, then the prevailing party will be entitled to recover, in addition to any other amounts awarded, reasonable legal and other related costs and expenses, including attorney's fees, incurred thereby. For purposes of this Section only, "prevailing party" means the party that prevails on a majority of causes of action in such dispute.

14.8 Export. Customer will not export or re-export the Equipment, Services or related documentation or any underlying information or technology except in full compliance with all United States and other applicable laws and regulations

14.9 Headings and Captions; Construction. Section headings are used for convenience only and will in no way affect the construction or interpretation of this Agreement. This Agreement has been negotiated by the respective parties hereto and their attorneys and the language hereof will not be construed for or against either party.

14.10 Counterparts. This Agreement and each Order may be executed in counterparts and by facsimile or electronic signature, all of which taken together constitute a single agreement between the parties. Each signed counterpart, including a signed counterpart reproduced by reliable means (such as facsimile and electronic signature), will be considered as legally effective as an original signature.

14.11 Entire Agreement. This Agreement, in conjunction with the applicable Orders, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all written or oral prior agreements between the parties with respect to this subject matter.