

**Exhibit D**

**Professional Services Terms and Conditions**

These Professional Services Terms and Conditions (“**Professional Services Terms and Conditions**”) shall govern the provision of the Professional Services by QuesTek Innovations LLC, a Delaware limited liability company (“**QuesTek**”) to the entity or person identified on the Order Form as the purchaser (“**Client**”). QuesTek and Client may be referred herein individually as a “**Party**” and collectively as the “**Parties**”. All capitalized terms used but not defined herein shall have the respective meanings ascribed to them under the Order Form. The Order Form and these Professional Services Terms and Conditions are collectively referred to as the “**Agreement**”.

1. Professional Services. QuesTek shall provide to Client the services (the “**Professional Services**”) set out in the Order Form.

1.1 QuesTek has and will retain sole control over the provision and management of the Professional Services.

1.2 Subcontractors. QuesTek may from time to time in its discretion engage third parties to perform Professional Services (each, a “**Subcontractor**”).

1.3 Suspension or Termination of Services. QuesTek may suspend, terminate, or otherwise deny the provision of any Professional Services without incurring any resulting obligation or liability, if: (a) QuesTek receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires QuesTek to do so; or (b) QuesTek believes, in its good faith and reasonable discretion, that: (i) Client, or anyone authorized by Client, has failed to comply with, any term of this Agreement; (ii) Client, or anyone authorized by Client, is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities; or (iii) this Agreement expires or is terminated. This **Section 1.3** does not limit any of QuesTek’s other rights or remedies, whether at law, in equity or under this Agreement.

2. Client Obligations. Client shall:

2.1 Respond promptly to any reasonable requests from QuesTek for instructions, information, or approvals required by QuesTek to provide the Professional Services.

2.2 Cooperate with QuesTek in its performance of the Professional Services and provide access to Client’s premises, employees, contractors, systems, information, and equipment as required to enable QuesTek to provide the Professional Services.

2.3 Take all steps necessary, including obtaining any required licenses or consents, to prevent Client-caused delays in QuesTek’s provision of the Professional Services.

3. Fees.

3.1 In consideration of the provision of the Professional Services by the QuesTek and the rights granted to Client under this Agreement, Client shall pay the Fees set out in Order Form. Unless otherwise provided in the Order Form, said fee will be payable within thirty (30) days of receipt by the Client of an invoice from QuesTek.

4. Limited Warranty and Limitation of Liability.

4.1 QuesTek warrants that it shall perform the Professional Services:

- (a) In accordance with the terms and subject to the conditions set out in the Agreement.
- (b) Using personnel of commercially reasonable skill, experience, and qualifications.
- (c) In a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services.

4.2 QuesTek's sole and exclusive liability and Client's sole and exclusive remedy for breach of this warranty shall be as follows:

(a) QuesTek shall use reasonable commercial efforts to promptly cure any such breach; provided, that if QuesTek cannot cure such breach within a reasonable time (but no more than thirty (30) days) after Client's written notice of such breach, Client may, at its option, terminate the Professional Services by serving written notice of termination in accordance with **Section 7.2**.

(b) In the event the Professional Services are terminated pursuant to **Section 4.2(a)** above, QuesTek shall within thirty (30) days after the effective date of termination, refund to Client any fees paid by the Client as of the date of termination for the Professional Services or Deliverables (as defined in **Section 5** below), less a deduction equal to the fees for receipt or use of such Deliverables or Professional Services up to and including the date of termination on a pro-rated basis.

(c) The foregoing remedy shall not be available unless Client provides written notice of such breach within fifteen (15) days after delivery of such Professional Services or Deliverable to Client.

4.3 QUESTEK MAKES NO WARRANTIES EXCEPT FOR THAT PROVIDED IN **SECTION 4.1**, ABOVE. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

## 5. Intellectual Property, Deliverables.

5.1 "**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world. "**Deliverables**" mean any items identified as such in the Order Form. Deliverables as well as any Client Confidential Information, including any data Client may provide to QuesTek in the course of the Professional Services or to complete any Deliverables, shall be owned by Client. Subject to the terms and conditions of this Agreement, Client grants to QuesTek a non-exclusive license to use, copy, store, transmit and display any Client data to the extent reasonably necessary to provide and maintain the Professional Services or any Deliverables. QuesTek hereby grants Client a license to use any QuesTek Intellectual Property Rights in the Deliverables, free of additional charge, on a non-exclusive, worldwide, non-transferable, non-sublicensable, fully paid-up, royalty-free and perpetual basis to the extent necessary to enable Client to make reasonable use of the Deliverables and the Professional Services.

5.2 Client will tell QuesTek in writing within fifteen (15) days of receiving a Deliverable whether it accepts or rejects that Deliverable. Client may reject any Deliverable which does not comply with the description set forth in the Order Form. If Client fails to notify QuesTek within the specified time, Contractor will accept the Deliverable. If Client rejects a Deliverable, Client will provide QuesTek with a written, sufficiently detailed explanation to allow QuesTek to identify and remedy any deficiencies in the Deliverable and allow QuesTek an opportunity to revise the deliverable to render it acceptable to Client.

6. Confidentiality.

6.1 Confidential Information. In connection with this Agreement, either Party (as the “**Disclosing Party**”) may disclose or make available Confidential Information to the other Party (as the “**Receiving Party**”). “Confidential Information” means information in any form or medium (whether oral, written, electronic or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party’s technology, trade secrets, know-how, business operations, plans, strategies, Clients, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, in each case whether or not marked, designated or otherwise identified as “confidential.”

6.2 Exclusions. Confidential Information does not include information that: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party’s or any of its representatives’ noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

6.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall during the Term and for five (5) years thereafter:

(a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;

(b) except as may be permitted by and subject to its compliance with **Section 6.4**, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party’s exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this **Section 6.3**; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this **Section 6.3**;

(c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care; and

(d) ensure its representatives’ compliance with, and be responsible and liable for any of its representatives’ non-compliance with, the terms of this **Section 6**.

6.4 Compelled Disclosures. If the Receiving Party or any of its representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under **Section 6.3**; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on

disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this **Section 6.4**, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that, on the advice of the Receiving Party's legal counsel, the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

## 7. Term, Termination, and Survival.

7.1 Term. The Term will be as set forth in the Order Form.

7.2 Termination. In addition to any other express termination right set forth elsewhere in this Agreement:

(a) QuesTek may terminate this the Professional Services, effective on written notice to Client, if Client: (i) fails to pay any amount when due hereunder, and such failure continues more than fifteen (15) days after QuesTek's delivery of written notice thereof; or (ii) breaches any of its obligations under **Section 6 (Confidentiality)**.

(b) either Party may terminate the Professional Services, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; and

(c) either Party may terminate the Professional Services, effective immediately upon written notice to the other Party, if the other Party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

7.3 Effect of Expiration or Termination. Upon any expiration or termination of the Professional Services, except as expressly otherwise provided in these Professional Services Terms and Conditions:

(a) all rights, licenses, consents and authorizations granted by either Party to the other hereunder will immediately terminate;

(b) QuesTek shall immediately cease all use of any Client Confidential Information and (i) within thirty (30) return to Client, or at Client's written request destroy, all documents and tangible materials containing, reflecting, incorporating or based on Client's Confidential Information; and (ii) permanently erase all Client Confidential Information from all systems QuesTek directly or indirectly controls.

(c) except as permitted by **Section 5 (Intellectual Property)**, Client shall immediately cease all use of any QuesTek materials QuesTek Confidential Information and (i) within thirty (30) days return to QuesTek, or at QuesTek's written request destroy, all documents and tangible materials containing, reflecting, incorporating or based on any QuesTek materials or QuesTek Confidential Information; and (ii)

permanently erase all QuesTek materials and QuesTek Confidential Information from all systems Client directly or indirectly controls; and (iii) certify to QuesTek in a signed written instrument that it has complied with the requirements of this **Section 7.3(c)**;

(d) notwithstanding anything to the contrary in this Agreement, with respect to information and materials then in its possession or control: (i) the Receiving Party may retain the Disclosing Party's Confidential Information (ii) QuesTek may retain Client Confidential Information; and (iii) Client may retain QuesTek Materials, in the case of each of subclause (i), (ii) and (iii) in its then current state and solely to the extent and for so long as required by applicable law; (iv) QuesTek may also retain Client Confidential Information in its backups, archives and disaster recovery systems until such Client Confidential Information is deleted in the ordinary course; and (v) all information and materials described in this **Section 7.3(d)** will remain subject to all confidentiality, security and other applicable requirements of this Agreement;

(e) if Client terminates this Agreement pursuant to **Section 7.2(b)**, Client will be relieved of any obligation to pay any Fees attributable to the period after the effective date of such termination and QuesTek will refund to Client Fees paid in advance for Professional Services that QuesTek has not performed as of the effective date of termination;

(f) if QuesTek terminates this Agreement pursuant to **Section 7.2(a)** or **Section 7.2(b)**, all Fees that would have become payable had the Agreement remained in effect until expiration of the Term will become immediately due and payable, and Client shall pay such Fees, together with all previously-accrued but not yet paid Fees, on receipt of QuesTek's invoice therefor.

(g) subject to **Section 7.3(d)**, QuesTek shall, within thirty (30) days following such expiration or termination, deliver to Client the then most recent version of Client Confidential Information maintained by QuesTek, provided that Client has at that time paid all Fees then outstanding and any amounts payable after or as a result of such expiration or termination, including in transferring such Client Confidential Information.

7.4 Surviving Terms. The provisions set forth in the following sections, and any other right or obligation of the Parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: **Section 5** (Intellectual Property), **Section 6** (Confidentiality), **Error! Reference source not found.**, **Section 7.3**, this **Section 7.4**, **Section 8** (Limitation of Liability), **Section 9** (Indemnification), and **Section Error! Reference source not found.** (Miscellaneous).

## 8. Limitation of Liability.

8.1 IN NO EVENT SHALL QUESTEK BE LIABLE TO CLIENT OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT QUESTEK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

8.2 IN NO EVENT SHALL QUESTEK'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 AGGREGATE AMOUNTS PAID OR PAYABLE TO QUESTEK PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATION APPLIES NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

9. Indemnification.

9.1 QuesTek Indemnification. QuesTek shall indemnify, defend and hold harmless Client and Client's officers, directors, employees, agents, successors and assigns (each, a "**Client Indemnitee**") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers ("**Losses**") incurred by such Client Indemnitee arising out of or relating to any claim, suit, action or proceeding (each, an "**Action**") by a third party (other than an affiliate of a Client Indemnitee) to the extent that such Losses arise from any allegation in such Action that Client's use of the Professional Services or any Deliverables (excluding Client Confidential Information and third party materials) in compliance with this Agreement infringes a Intellectual Property Right. The foregoing obligation does not apply to any Action or Losses arising out of or relating to any:

(a) access to or use of the Professional Services, Deliverables, or any other information or materials provided by QuesTek Materials in combination with any hardware, system, software, network or other materials or service not provided or authorized in writing by QuesTek;

(b) modification of the Professional Services or Deliverables other than: (i) by or on behalf of QuesTek; or (ii) with QuesTek's written approval in accordance with QuesTek's written specification;

(c) failure to timely implement any modifications, upgrades, replacements or enhancements made available to Client by or on behalf of QuesTek; or

(d) act, omission or other matter described in Section 9.2(a), Section 9.2(b), Section 9.2(c) or Section 9.2(d), whether or not the same results in any Action against or Losses by any QuesTek Indemnitee.

9.2 Client Indemnification. Client shall indemnify, defend and hold harmless QuesTek and its Subcontractors and affiliates, and each of its and their respective officers, directors, employees, agents, successors and assigns (each, a "**QuesTek Indemnitee**") from and against any and all Losses incurred by such QuesTek Indemnitee in connection with any Action by a third party (other than an Affiliate of a QuesTek Indemnitee) to the extent that such Losses arise from any:

(a) Confidential Information provided by Client, including any Client data and any processing of Client's data by or on behalf of QuesTek in accordance with this Agreement;

(b) any other materials or information (including any documents, data, specifications, software, content or technology) provided by or on behalf of Client, including QuesTek's compliance with any specifications or directions provided by or on behalf of Client to the extent prepared without any contribution by QuesTek;

(c) allegation of facts that, if true, would constitute Client's breach of any of its representations, warranties, covenants or obligations under this Agreement; or

(d) negligence or more culpable act or omission (including recklessness or willful misconduct) by Client or any third party on behalf of Client in connection with this Agreement.

9.3 Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to **Section 9.1** or **Section 9.2**, as the case may be. The Party seeking indemnification (the "**Indemnitee**") shall cooperate with the other Party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor shall immediately take control of the defense and investigation of such Action and shall employ counsel reasonably acceptable to the Indemnitee to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee's failure to perform any obligations under this **Section 9.3** will not relieve the Indemnitor of its obligations under this **Section Error! Reference source not found.** except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

9.4 Mitigation. If any of the Professional Services or Deliverables are, or in QuesTek's opinion are likely to be, claimed to infringe, misappropriate or otherwise violate any third-party Intellectual Property Right, or if Client's use of the Professional Services or Deliverables is enjoined or threatened to be enjoined, QuesTek may, at its option and sole cost and expense:

(a) obtain the right for Client to continue to use the Professional Services and Deliverables materially as contemplated by this Agreement;

(b) modify or replace the Professional Services and Deliverables, in whole or in part, to seek to make the Professional Services and Deliverables (as so modified or replaced) non-infringing, while providing materially equivalent features and functionality, in which case such modifications or replacements will constitute Professional Services and Deliverables, as applicable, under this Agreement; or

(c) by written notice to Client, terminate this Agreement with respect to all or part of the Professional Services and Deliverables, and require Client to immediately cease any use of the Professional Services and Deliverables or any specified part or feature thereof, provided that, subject to Client's compliance with its post-termination obligations set forth in **Section 7.3**, QuesTek will refund to Client Fees paid in advance for Professional Services that QuesTek has not performed as of the effective date of termination.

THIS SECTION 9 SETS FORTH CLIENT'S SOLE REMEDIES AND QUESTEK'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF (INCLUDING THE PROFESSIONAL SERVICES AND DELIVERABLES) INFRINGES, MISAPPROPRIATES OR OTHERWISE VIOLATES ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT.

10. Miscellaneous.

10.1 Further Assurances. Upon a Party's reasonable request, the other Party shall, at the requesting Party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.

10.2 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement 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.

10.3 Public Announcements. QuesTek may include Client's name and logo in its Client lists and on its website and its promotional and marketing materials. Upon signing, QuesTek may issue a high-level press release announcing the relationship and the manner in which Client will use the QuesTek Professional Services. QuesTek shall coordinate its efforts with appropriate communications personnel in Client's organization to secure approval of the press release if necessary.

10.4 Interpretation. For purposes of this Agreement: (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments and appendices mean the sections of, and exhibits, schedules, attachments and appendices attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, Supplements and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

10.5 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

10.6 Entire Agreement. These Professional Services Terms and Conditions, including the Order Form and any Supplements thereto, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

10.7 Assignment. Client shall not assign, transfer, delegate or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of QuesTek, which consent QuesTek shall not unreasonably withhold or delay. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Client (regardless of whether Client is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement for which QuesTek's prior written consent is required. No delegation or other transfer will relieve Client of any of its obligations under this Agreement. Any purported assignment



or delegation in violation of this **Section 10.7** shall be null and void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

10.8 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

10.9 Amendments and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing, and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

10.10 Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

10.11 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Illinois without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Illinois. Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Illinois in each case located in the city of Chicago, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

10.12 Force Majeure.

(a) No Breach or Default. In no event will either Party be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, (except for any payment obligation), when and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control (a "**Force Majeure Event**"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, pandemics, epidemics, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government

shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either Party may terminate this Agreement if a Force Majeure Event affecting the other Party continues substantially uninterrupted for a period of thirty (30) days or more.

(b) Affected Party Obligations. In the event of any failure or delay caused by a Force Majeure Event, the affected Party shall give prompt written notice to the other Party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

10.13 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under **Section 6** would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.