



Customer Terms of Service for the Avrios Platform (“Customer Terms”)

Effective: 07-Dec-2020

These Customer Terms of Service (the “Customer Terms”) describe your rights, responsibilities, and obligations when using the Avrios software-as-a-service solutions for fleet and mobility management (the “Avrios Platform”). **Unless you have entered into an individual written agreement with us, your access to and use of the Avrios Platform is governed by these Customer Terms.**

All “Authorized Users” who access and use the Avrios Platform on your behalf (e.g. fleet managers) must comply with our [User Terms of Service](#) (the “User Terms”).

INTRODUCTION

“Avrios”, “we,” “our” and “us” means Avrios International AG, a limited company with registered office at Weststrasse 50, 8003 Zurich, Switzerland, and registered number CHE-480.579.000, and, where appropriate, our affiliate companies within our group.

A “Customer” is a legal entity, represented by an individual who works for that entity, that enters into a legally binding contract with us (by way of creating an account or signing an “Order Form” subject to the Customer Terms) regarding the access to and the use of the Avrios Platform as further described below (the “Agreement”). We may use “you” as a synonym for Customer.

Any individual creating a Customer Account, subscribing to a Paid Plan, or signing an Order Form, hereby represents to have the required authority to enter into and bind the Customer to these Customer Terms.

1. USE OF THE AVRIOS PLATFORM

1.1 Access

Each Customer requires a “Customer Account” in order to access and use the Avrios Platform. You either create a Customer Account through our self-service interface or we set up a Customer Account on your behalf and provide you with the login information.

You may add or remove “Authorized Users” to or from your Customer Account at any time and at your discretion. Authorized Users are individuals associated with your organisation who are authorized by you to access and use the Avrios Platform on your behalf.

We require each Authorized User to agree to the User Terms upon initial log-in and whenever we have made material changes to the User Terms. We reserve the right to amend or update the User Terms at our discretion at any time, provided that those changes do not unreasonably limit the functionality of the Avrios Platform or your rights under this Agreement.

It is your responsibility to ensure that (i) your Authorized Users comply with the Agreement and the User Terms and that (ii) all login details are kept secure and updated when Authorized Users are changed.

Authorized Users may upload content to the Avrios Platform, such as information about vehicles or drivers (“Customer Data”). We are not responsible for the content of any Customer Data or the way your or your Authorized Users choose to use the Avrios Platform to store or process such Customer Data. You warrant that you have all permissions required by law to process the Customer Data within the Avrios Platform.

It is your responsibility to set the controls in the Avrios Platform so that particular Customer Data is accessible only by, and may be changed only by, those individuals whom you intend to have access to or to be able to change it.

1.2 Technical Requirements

The access and use of the Avrios Platform requires (i) an internet connection with sufficient bandwidth which is outside the scope of the Agreement and not our responsibility and (ii) an internet browser (information on the currently supported browsers and versions can be found [on our website](#)). To use Driver License Check, it is required that drivers have both a smartphone with a camera featuring autofocus and an email address or mobile phone number. To access our compliance tools, drivers need a computer with internet connection.

1.3 Free Plan

We offer a basic version of the Avrios Platform free of charge (“Free Plan”). We are entitled to change the scope and specifications of the Free Plan any time and at our discretion, including the discontinuation of the Free Plan, without any liability to you whatsoever. You may terminate your access to the Free Plan and close your Customer Account at any time by notifying us in accordance with this Agreement.

1.4 Paid Plans and Services

1.4.1 Subscriptions and auto-renewal

Certain features of the Avrios Platform and related services and service levels are subject to a fee and require you to purchase one of our “Paid Plans”. By signing up for a Paid Plan (through

our self-service interface or by signing an “Order Form”) you enter into a “Subscription” as per the provisions of this Agreement and the respective Paid Plan.

Subscriptions commence on the “Subscription Start Date” as determined by the Paid Plan you have chosen to subscribe to or as agreed upon in an Order Form. Unless terminated in accordance with the applicable notice period or otherwise in accordance with this Agreement, a Subscription automatically renews at the end of a subscription period and continues for another subscription term (each a “Renewal Term”) of twelve (12) months or as otherwise agreed in an Order Form, save that any Subscriptions under our monthly Plans renew on a month by month basis.

1.4.2. Onboarding services

Some of our Paid Plans include certain “Onboarding services” such as assistance with uploading your Customer Data to the Avrios Platform or user training as further specified in the provisions in the respective Paid Plan. Onboarding Services are a non-recurring one-off service and typically performed during the first weeks of an initial Subscription term.

1.4.3 Professional Services

We may agree under an Order Form or separate “Statement of Work” for you to purchase certain Professional Services (including configuration, implementation, customisation, and training services) as set out in that applicable Order Form or Statement of Work.

To the extent required to use the Avrios Platform, we grant you a non-exclusive, non-transferable right to use the relevant intellectual property rights related to the Professional Services during the Subscription term.

1.4.4 Fees and payment terms

Unless stated otherwise in an Order Form or Statement of Work, any fees for Subscriptions, Onboarding Services, or Professional Services must be paid in advance. Payment obligations are non-cancelable and, except as expressly stated in the Agreement, fees paid are non-refundable.

For some of the Paid Plans available via our self-service interface, we only accept credit card or direct debit as a payment method. In these cases, payments are due upon the Subscription Start Date. Where we accept bank transfers, payments are due within fourteen (14) days of the invoice date.

If you choose to downgrade from a Paid Plan to our Free Plan, you will remain responsible for any unpaid fees under the Paid Plan, and services under the Paid Plan will be deemed fully performed and delivered upon expiration of the active Subscription term of the Paid Plan.

All fees are stated exclusive of any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use, or withholding taxes (collectively, "Taxes"), which, if applicable, shall be payable by Customer in addition. Where required by law we will reverse charge any value-added tax (VAT) to our non-Swiss Customers.

1.4.5 Credits

Any credits that may accrue to your Customer Account, will expire following expiration or termination of the Agreement, will have no currency or exchange value, and will not be transferable or refundable.

1.4.6 Account Suspension or Downgrade for non-payment

If any fees owed to us by you (excluding amounts disputed reasonably and in good faith) are not paid on the due date for payment, we may, without limiting our other rights and remedies, suspend your and your Authorized Users' access to your Customer Account or downgrade any Paid Plan to our Free Plan until those amounts are paid in full, so long as we have given you ten (10) or more days' prior notice that we intend to take such action.

2 OUR WARRANTIES

We will operate the Avrios Platform and perform any applicable Onboarding Services and Professional Services under the Agreement using reasonable care and skill, in accordance with good industry practice and in a good workmanlike manner.

We are constantly improving and updating the Avrios Platform and strive to provide you with new and innovative features and services. You will always have access to the latest version of the Avrios Platform within the scope of any Paid Plan you may have subscribed to.

We may from time to time update or modify certain elements of the Avrios Platform and you agree that a key characteristic of our service is that changes to the Avrios Platform will take place over time and this is an important basis on which we grant you access to the Avrios Platform.

We provide the Avrios Platform on an "as is" and "as available" basis and we do not warrant that the Avrios Platform will operate uninterrupted or error-free.

The express undertakings and warranties given by us in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations on the part of Avrios, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of those are excluded to the fullest extent permitted by law.

If the services carried out by us under the Agreement do not comply with the warranties in this section, we will use reasonable endeavours to re-perform the affected service or will provide you with an alternative means of carrying out the task. That successful re-performance or the provision of the alternative means shall be your sole and exclusive remedy for any breach of the warranties in this section.

3 OUR OBLIGATIONS

3.1 Availability of the Avrios Platform

We will use commercially reasonable efforts to ensure that the Avrios Platform is available for use 24 hours a day, 7 days a week, excluding downtime for maintenance purposes.

We will usually plan and carry out maintenance of the Avrios Platform outside of business hours. You may [register with us](#) to stay informed about any scheduled maintenance activities, but it may be necessary from time to time to suspend use of the Avrios Platform at any time to carry out emergency maintenance.

Some of our Paid Plans include certain uptime commitments. If we fall short of any uptime commitment as set out in a Paid Plan, you agree that your sole and exclusive remedy for our failure to operate the Avrios Platform as per the committed availability level shall be “Service Credits” as defined in such Paid Plan.

We exclude any liability for unavailability or downtime of the Avrios Platform due to (i) customer-caused or third party-caused outages or disruptions (except to the extent that such outages or disruptions are caused by those duly authorised third parties sub-contracted by Avrios to support the operation of the Avrios Platform), or (ii) outages or disruptions attributable in whole or in part to force majeure events.

3.2 Processing of Customer Data

3.2.1 Personal Data

The following definitions apply:

1. the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data" and "Processing" bear the respective meanings given them in EU Regulation 2016/679 ("GDPR"); and
2. "Data Protection Laws" means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: (i) The Swiss

Federal Act on Data Protection (ii) GDPR; (iii) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR (including, in the UK, the Data Protection Act 2018 and (to the extent in force) the UK GDPR as defined in The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 ("**UK GDPR**")); and (iv) any laws and regulations implementing or made pursuant to EU Directive 2002/58/EC (as amended by 2009/136/EC) (including, in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003); in each case, as updated, amended or replaced from time to time; and

3. "Customer Personal Data" means any personal data provided by or on behalf of Customer and as included in Customer Data.

Each party to the Agreement will comply with the provisions and obligations imposed on it by the Data Protection Laws when processing Personal Data in connection with this Agreement.

Where we process Customer Personal Data, we will: (i) comply with the provisions and obligations imposed on a Processor by the GDPR, including the stipulations set out in Article 28(3)(a)-(h) which form a part of, and are incorporated into, this Agreement as if they were set out in full, and the reference to "documented instructions" in Article 28(3)(a) will include the provisions of this Agreement; and (ii) not disclose any Personal Data relating to any Data Subject or to a third party other than at your written request or as expressly provided for in this Agreement.

If we receive any complaint, notice, or communication which relates to the processing of Personal Data by us in connection with this Agreement, or to either party's compliance with the Data Protection Laws, or if any Personal Data processed in connection with this Agreement is subject to a personal data breach (as defined in the GDPR), we will notify you without undue delay and provide you with reasonable cooperation and assistance in relation to any such complaint, notice, communication, or personal data breach.

We may engage Avrios' affiliates and third parties as sub-processors to process Personal Data for the purpose of performing the services under this Agreement. A [current list of our third party sub-processors](#) is available on our website. We have entered into a written agreement with each sub-processor containing data protection obligations and processing of Personal Data not less protective than those stipulated by this Agreement.

We may engage new third party sub-processors, and will provide notice and details of any such third-party sub-processor in advance of any changes. You are required to [register with us](#) to receive such notifications.

You will have 14 days from our notification to you, to notify us of any grounds for objection to such change. If you do not notify us of any objection within that 14 day period, you will be deemed to have accepted the new third party sub-processor.

If you have reasonable grounds for objection, we will in good faith discuss and agree on a way to provide the services without the offending sub-processor. If we cannot agree on a way forward, you may terminate this Agreement with 30 days' written notice to us without penalty.

To the extent that we obtain and control Personal Data relating to your staff and/or representatives outside of Customer Data, we shall process such Personal Data in accordance with our [Privacy Policy](#).

3.2.2 Analytics

You acknowledge that we will, from time to time, undertake analysis of Customer Data to constantly improve the quality of our Avrios Platform and for the purpose of providing anonymous aggregate benchmarks and comparisons to all of its users.

3.3 Onboarding and Support Services

Our online and virtual support resources are available to all Authorized Users free of charge. Additional Support Services (like chat, email, phone) and individual Onboarding Services are only available to subscribers to a Paid Plan and subject to the provisions and service level commitments of the respective plan.

3.4 Third-party failure

We are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Avrios Platform may be subject to limitations, delays and other problems inherent in the use of such communication facilities.

3.5 Third-party websites

Links to third party websites may be presented to Authorized Users through the Avrios Platform and cause an Authorized User to leave the Avrios Platform when activating such a link. We have no responsibility for the content of those third-party websites and it is your responsibility to check the terms of those third-party websites.

4 CUSTOMER OBLIGATIONS AND WARRANTIES

You represent and warrant that the individual creating a Customer Account and accepting this Agreement has the legal capacity to enter into this Agreement and is duly authorised to do so.

You represent and warrant that you have all necessary licences and permissions to enter Customer Data into the Avrios Platform and that you and your Authorized Users shall use the Avrios Platform in accordance with all applicable laws, this Agreement and the User Terms.

You agree that you and your Authorized Users shall not use the Avrios Platform to (i) commit crimes or violations of legal provisions or to promote the same; (ii) to store, transmit or disseminate a virus; (iii) to store or send material which is malicious or technologically damaging or contrary to the principle of good faith or is otherwise illegal, offensive or obscene; (iv) to hack into parts of the Avrios Platform; (v) to corrupt data; (vi) to cause disruption to other users; (vii) to violate the intellectual property rights of others; (viii) to send unsolicited advertising or marketing material; or (ix) to try to influence the performance or functionality of the Avrios Platform or other IT systems accessible through the Avrios Platform.

5 OWNERSHIP AND PROPRIETARY RIGHTS

For the duration of the Subscription, we grant you and your Authorized Users the non-exclusive, non-transferable, non-sublicensable, revocable right to access, interact with, and use the Avrios Platform subject to compliance with the terms of the Agreement and the User Terms and any limitations set out in the Free Plan or any applicable Paid Plan. We expressly reserve all other rights. In particular, we own and will continue to own the Avrios Platform, including all related intellectual property rights (including any customisations, configuration or modifications to the Avrios Platform whether for a specific customer or not, and any feedback on the Avrios Platform provided by your Authorized Users or other staff).

You agree not to download, copy, or modify the software comprising the Avrios Platform or parts thereof.

You are not allowed to use our trademarks, trade names, or logos. Any copyright notices displayed via the Avrios Platform or reports produced through its use must not be removed or altered.

You retain all rights including intellectual property rights in any material or data provided by you or your Authorized Users to Avrios under this Agreement, including Customer Data.

6 TERM AND TERMINATION

6.1 Term of the Agreement

The Agreement remains effective until any Subscription under the Agreement has expired or the Agreement itself terminates. Termination of the Agreement will terminate any active Subscription under a Paid Plan and the right to use the Avrios Platform under the Free Plan.

6.2 Termination without cause

As outlined in section "Use of the Avrios Platform", a Subscription to a Paid Plan automatically renews if you do not take action ahead of time.

Either party may give the other party notice of non-renewal at least sixty (60) days before the end of the applicable subscription term, such notice to take effect at the end of the applicable subscription term. For our Paid Plans that renew on a month-by-month basis the notice period for non-renewal is seven (7) days.

If you give us notice of non-renewal for an active Subscription and choose not to subscribe to a different Paid Plan or not to downgrade to our Free Plan, we will close your Customer Account upon expiration of the then active Subscription term.

6.3 Termination for Cause

Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this Agreement and/or a Paid Plan or the Free Plan without liability to the other at any time with immediate effect upon written notice if the other party:

- i) is in material breach of any of its obligations under this Agreement, the User Terms and/or an Order Form and, in the case of a breach which is capable of remedy, fails to remedy such breach within thirty (30) days following notice of the breach; or
- ii) voluntarily files a petition under bankruptcy or insolvency law; shall have a receiver or administrative receiver appointed over it or any of its assets; or if the other party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business; or is subject to any analogous event or proceeding in any applicable jurisdiction.

6.4 Effect of Termination

Upon termination for any reason, your rights of use granted under this Agreement shall immediately terminate, your Authorized Users shall immediately cease the use of the Avrios Platform, and you shall promptly pay all fees due under this Agreement.

6.5 Transfer and deletion of Customer Data

You may at any time download your Customer Data from the Avrios Platform during the term of this Agreement.

Upon termination of the Agreement we will grant you limited access to the Avrios Platform for a reasonable period and subject to the terms of this Agreement for the sole purpose of you downloading all Customer Data held within the Avrios Platform, provided that you submit a respective request within fifteen (15) days of the effective date of termination. Except as set out above, we are not obliged to support you in the downloading of your Customer Data or export your Customer Data on your behalf.

Thirty (30) days after the effective date of termination of the Agreement we will delete all Customer Data from the Avrios Platform in line with our data retention policy (save any data that we may be required to retain by law).

7 LIMITATION ON LIABILITY

No provision of the Agreement limits any liability for (i) death or personal injury caused by negligence, (ii) damages caused intentionally or by gross negligence, or (iii) liability that, by applicable law, cannot be limited.

No provision of the Agreement limits your liability for breach of the sections "OWNERSHIP AND PROPRIETARY RIGHTS" or "YOUR INDEMNIFICATION OF US".

Subject to the preceding two paragraphs, neither party shall be liable to the other in respect of the following losses: (i) loss of profits, (ii) loss of sales or business, (iii) loss of anticipated savings, (iv) loss of use or corruption of software, data or information, and (v) indirect or consequential loss or damages.

Subject to the foregoing provisions, our total liability (in contract, tort (including negligence), breach of statutory duty or otherwise) to you arising under or in connection with the Agreement shall not exceed the total fees paid by you to us in the twelve months prior to the occurrence of the event giving rise to the claim.

8 CONFIDENTIALITY

8.1 Confidential Information

Each party ("Disclosing Party") may disclose "Confidential Information" to the other party ("Receiving Party") in connection with the Agreement, which is anything that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure including non-public business, product, technology and marketing information. Confidential Information of Customer includes Customer Data. If something is labelled "Confidential," that's a clear indicator to the Receiving Party that the material is confidential. Notwithstanding the above, Confidential Information does not include information that (a) is or

becomes generally available to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a third party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party.

8.2 Disclosure

Should either party to the Agreement disclose any Confidential Information to the other, the Receiving Party undertakes that it shall (i) keep the Confidential Information secret and confidential, (ii) not use or exploit the Confidential Information in any way, except for in connection with the performance of its obligations under the Agreement, and (iii) only disclose the Confidential Information in accordance with this section "Disclosure" or with the written consent of the other party.

A Receiving Party may disclose Confidential Information to any of its officers, employees, advisers and sub-contractors that need to know the relevant Confidential Information for the purpose of the performance of obligations under or in connection with the Agreement only, provided that the Receiving Party procures that each such person to whom the Confidential Information is disclosed complies with the obligations set out in this section "Disclosure".

A Receiving Party may also disclose Confidential Information to the minimum extent required by (i) any order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or taxation authority of competent jurisdiction, or (ii) the laws or regulations of any country to which that Receiving Party's affairs are subject.

8.3 Return of confidential information

If requested by a Disclosing Party at any time, the Receiving Party shall immediately destroy (or return to the Disclosing Party) all documents and other records of Confidential Information (or any of it in any form) that have been supplied to it.

8.4 Survival

Notwithstanding the termination of this Agreement, the obligations of the parties under this section "CONFIDENTIALITY" shall continue for a period of 2 (two) years from the date of termination of the Agreement.

9 INDEMNIFICATION

9.1 Our indemnification of you

We will defend you from and against any and all third party claims, actions, suits, proceedings, and demands alleging that the use of the Avrios Platform as permitted under the Agreement infringes or misappropriates a third party's intellectual property rights (a "Claim Against You"), and will indemnify you for all reasonable attorney's fees incurred and court-awarded damages finally awarded against you in connection with, a Claim Against You; provided, however, that we will have no liability if a Claim Against You arises from Customer Data or any modification, combination or development of the Avrios Platform that is not performed by us. You must provide us with prompt written notice of any Claim Against You and allow us the right to assume the exclusive defence and control, and cooperate with any reasonable requests assisting our defence and settlement of such matter. This section states our sole liability with respect to, and your exclusive remedy against us for, any Claim Against You.

9.2 Your indemnification of us

You will defend us from and against any and all third party claims, actions, suits, proceedings, and demands arising from or related to your or your Authorized Users' violation of the Agreement or the User Terms (a "Claim Against Us"), and will indemnify us for all reasonable attorney's fees incurred and damages and other costs incurred by us in connection with a Claim Against Us. We must provide you with prompt written notice of any Claim Against Us and allow you the right to assume the exclusive defence and control, and cooperate with any reasonable requests assisting your defence and settlement of such matter. This section states your sole liability with respect to, and our exclusive remedy against you for any Claim Against Us.

9.3 Limitations on indemnifications

Notwithstanding anything contained in the two preceding sections, (i) an indemnified party will always be free to choose its own counsel if it pays for the cost of such counsel; and (ii) no settlement may be entered into by an indemnifying party, without the express written consent of the indemnified parties (such consent not to be unreasonably withheld).

10 MISCELLANEOUS PROVISIONS

10.1 Electronic Communication

We shall be entitled to communicate with you and your Authorized Users via email to the email addresses provided to us by you and other electronic communication channels, including the Avrios Platform itself.

Electronic communication channels are generally not secured against access by unauthorised third parties and therefore carry certain risks, e.g. lack of confidentiality, manipulation of contents and sender data, misdirection, delay, viruses etc. Unless there is gross misconduct on our part you shall not be entitled to hold us liable for damage incurred in connection with the use of electronic communication channels.

10.2 Force Majeure

A party shall not be liable by reason of any failure or delay in the performance of its obligations on account of events beyond the reasonable control of that party, which may include denial-of-service attacks, a failure by a third-party hosting provider or utility provider, strikes, shortages, riots, fires, acts of God, war, terrorism, epidemics, pandemics, or governmental action.

10.3 Assignment/Transfer

Neither party may assign or delegate any of its rights or obligations under the Agreement, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign the Agreement in its entirety, without consent of the other party, to a corporate affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the above, Avrios may subcontract its obligations under this Agreement, provided that it remains responsible for all subcontractors.

We may at any time assign, mortgage, charge, or deal in any other manner with our rights to collect fees under the Agreement. In this context, we shall be entitled at any time to make information related to the contractual relationship accessible to such third parties and other parties involved, with these parties being obliged to observe confidentiality.

10.4 Severability Clause

Should individual provisions of the Agreement be invalid, illegal or unenforceable this will not affect the validity of the remaining parts of the Agreement. The invalid/illegal/unenforceable provision shall be replaced by a provision the meaning and purpose of which approximates to the original provision as closely as possible in commercial terms in a legally permissible way.

10.5 Notices

Notices from you to us must be submitted by eMail to legal@avrios.com.

We may give you notice by email to the email address(es) associated with your Customer Account or by messaging you through the Avrios Platform.

10.6 Amendments

As our business evolves, we may change these Customer Terms and the other components of the Agreement. If we make a material change to the Agreement, we will provide you with reasonable notice prior to the change taking effect.

Any revision of our Customer Terms will become effective on the date set forth in our notice. If you or any Authorized User accesses or uses the Avrios Platforms after the effective date set out in such notice, that use will constitute your acceptance of the revised Customer Terms.

If you do not want to continue to use the Avrios Platform under the revised Customer Terms, and raise such objection within 10 days of being notified of the new Customer Terms, then the Agreement will automatically terminate at the end of the contractually committed Subscription Term without the need for notice. In this case, the then current version of the Customer Terms will continue to apply until the end of your then contractually committed Subscription term.

No terms provided by you to us shall form part of this Agreement, and no staff of Avrios has any authority to agree on amendments to Customer Terms unless agreed by way of separate Order Form referencing the precise term to be amended

10.7 Entire agreement

The Agreement constitutes the whole agreement between the parties relating to its subject matter and supersedes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral.

10.8 No Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

10.9 Third Parties

No one other than a party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

10.11 Survival

Clauses that by their nature are intended to survive termination of the Agreement, will survive any termination or expiration of the Agreement (including but not limited to the sections entitled

CONFIDENTIALITY, FEES AND PAYMENT, OWNERSHIP AND PROPRIETARY RIGHTS AND LIMITATION ON LIABILITY).

10.12 Applicable law and legal venue

This Agreement is governed by Swiss law to the exclusion of the UN convention on the international sale of goods (CISG) and any application of the conflict of laws (IPR). The legal venue for all legal disputes arising from or in connection with this Agreement is Zurich, Switzerland, save that we shall have the right to institute legal action against you at your general place of jurisdiction, at our discretion.