

GENERAL TERMS AND CONDITIONS OF TNA Thoeni North America Inc.

1 Definitions

- 1.1 **Agreement:**
means the agreement between the Customer and TNA for the delivery of TNA Products and/or Services.
- 1.2 **Customer(s):**
means any person or business entity with whom TNA and its employees deal in the course of business, including visitors of the TNA website (also a Party, or collectively with TNA, Parties).
- 1.3 **Defect:**
means any substantive failure of the Products to comply with functional or technical specifications mutually agreed upon by the Parties.
- 1.4 **TNA:**
means Thoeni North America Inc. (also a Party, or collectively with Customer, Parties).
- 1.5 **Product(s):**
means the TNA products provided pursuant to the Agreement, including without limitation digestion machines or solutions, equipment and systems, and other related equipment, supplies, goods, parts, software and related documentation and specifications.
- 1.6 **Service(s):**
means the full assortment of TNA's services, including but not limited to consulting, installation, servicing, and/or related services.
- 1.7 **Terms and Conditions:**
shall mean these General Terms and Conditions of TNA.

2 Applicability

- 2.1 These Terms and Conditions apply exclusively to all offers of TNA, the Parties' relationship, any Agreement, any other of the Parties' agreements, and any subsequent amendment to any of the above, even if third parties are used to deliver Products. No other terms and conditions shall be binding upon TNA unless accepted by it in writing. TNA expressly rejects any general terms and conditions used by Customer.
- 2.2 Customer may issue a purchase order for administrative purposes only, but any terms and conditions contained in same will be null and void.
- 2.3 TNA reserves the right to amend these Terms and Conditions at any time. New or amended general terms and conditions shall be applicable upon thirty (30) days' notice to Customer.
- 2.4 In case of inconsistencies between the terms of an Agreement and these Terms and Conditions, those in the Agreement shall control.

3 Offers

- 3.1 All offers of TNA are non-binding and may be revoked at any time. Any amendments made by TNA in writing shall entail a new offer, automatically revoking the previous offer. Any amendments by Customer of a TNA offer will be deemed a new offer by Customer, which TNA may accept or reject in its sole discretion. Offers will only be deemed accepted by TNA if it does so in writing.
- 3.2 All information, data or undertakings provided verbally or in documentation, price lists or other material related to Products and/or Services, whether in electronic or any other form, are binding only to the extent that they are by reference expressly included and confirmed in writing in the Agreement.
- 3.3 All offers are based upon the information and documentation provided by Customer, and TNA may rely on the accuracy thereof. Customer warrants the accuracy, completeness and reliability of the information and documentation, even if it originates with or is acquired from third parties.
- 3.4 Customer hereby understands and accepts that all samples, drawings, models, figures, dimensions, weights or any other specifications for Products and/or Services are estimates only, although TNA will use best efforts to ensure their accuracy.
- 3.5 All Agreements for the delivery of Products and/or Services to Customer shall be treated as separate agreements.

4 Prices and Taxes

- 4.1 Configurations and prices of Products and/or Services are subject to change at any time, and TNA shall at all times be entitled to modify price lists, brochures, quotations and other documents. Customer agrees to any changes of prices or configurations if it does not object in writing to TNA within ten (10) days of when it receives an invoice incorporating said changes.
- 4.2 All prices are exclusive of, and Customer shall pay, all taxes, duties, levies, or other similar charges imposed on the Parties by any authority (other than the income tax of TNA), related to the Agreement, unless Customer has provided TNA with an appropriate exemption certificate for the delivery location. In case of changes in law such that a tax is levied that is or becomes irrecoverable with a consequent increase to TNA's costs of delivering the Products and/or Services, TNA is entitled to increase its prices accordingly and retroactively.

5 Payment

- 5.1 Customer agrees to pay, without the right to set-off any amount, all invoiced amounts within thirty (30) days of the invoice date, unless stated otherwise in the Agreement or on the invoice. However, all amounts will be due immediately, in case Customer terminates or suspends all or a substantial portion of its business activities, becomes insolvent, admits its inability to

pay its debts, or in case of the filing of a petition for or adjudication of bankruptcy of Customer under any bankruptcy or insolvency act, the appointment of a receiver, trustee, custodian, or liquidator, or any act or action by Customer constituting a general assignment for the benefit of creditors.

- 5.2 Where payment is not made within the terms set forth in this article, contractual interest shall be owed at a rate of 1.5% per month, or the highest rate allowed by law, if lower, from the expiration of the payment term referred to in this article; part of a month shall be considered a full month.
- 5.3 Customer's payments shall always be used first to meet all interest and costs owed and subsequently for the settlement of claims under the Agreement which have remained outstanding for the longest period of time, even when Customer specifies that the payment relates to another claim or amount.
- 5.4 Customer shall not be entitled to refuse to discharge or to suspend the discharge of its payment obligations on account of alleged Defect in the Products and/or Services, later delivery, or on any other account whatsoever.
- 5.5 If TNA believes that Customer's financial position and/or payment performance justifies such action, TNA has the right to demand that Customer immediately furnish security in a form to be determined by TNA and/or make an advance payment. If Customer fails to furnish the desired security, TNA has the right, without prejudice to its other rights, to immediately suspend the further execution of the Agreement, and that which Customer owes to TNA for whatever reason will become immediately due and payable.
- 5.6 Customer is liable and shall pay any costs TNA incurs to collect payment, including without limitation, collection agency fees and reasonable attorneys' fees and costs.

6 Delivery, Lead Times, Risk of Loss and Installation

- 6.1 Delivery and/or development times and dates are merely estimates, as well as lead times or any other deadlines, and TNA cannot be held liable for any damages as a result of delay in delivery of the Products and/or Services. Unless otherwise agreed in writing, failure to meet delivery times or delivery dates stated shall never be considered fatal, and if the time for delivery is exceeded, Customer shall not be entitled to cancel or terminate the Agreement, or to claim any damages. If any delivery period or lead time is at risk to be exceeded, TNA will inform Customer as soon as reasonably possible and the Parties will enter into consultations in order to determine a new delivery period.
- 6.2 Delivery of Products shall be made Ex Works, Landeck, Thoeni Austria as this term is specified in the Incoterms 2020. Customer must accept delivery of Products during normal business hours, failing which all costs arising thereof (including storage charges and freight charges) shall be charged in conformity with TNA's rates or local charges. TNA is entitled to make partial deliveries and to engage the services of third parties for the execution of an Agreement.
- 6.3 The risk of loss or damage of Products shall pass to Customer at the moment of delivery Ex Works, Landeck, Thoeni Austria, or when the Customer, or an agent or subcontractor acting on its behalf, has effectively assumed control of the Products, whichever is sooner, even if TNA has not yet transferred ownership thereof.
- 6.4 Claims in connection to shortages or errors in shipping must be reported in writing to TNA within three (3) business days of receipt of such shipment. If Customer fails to report timely, TNA will have no obligation to correct such shipments, unless Customer bears all the expenses thereof.
- 6.5 In the case of any alleged shortage, errors, Defects or non-conformance with the Agreement, Customer shall allow TNA to inspect the Products subject to the alleged Defect.
- 6.6 Notwithstanding the above, TNA will have no obligation to replace or repair any Products if the Products have been handled, processed or stored improperly by the Customer or if the Customer has not fully met its obligations under these Terms and Conditions.
- 6.7 THE SOLE AND EXCLUSIVE REMEDY FOR ALLEGEDLY DEFECTIVE PRODUCTS IS THE REPLACEMENT OR REPAIR OF SUCH PRODUCTS OR PARTS OF SUCH PRODUCTS, AT NO COSTS FOR CUSTOMER.
- 6.8 Maintenance and/or installation, and any performance related thereto, is not included in any Agreement and Customer shall be solely responsible for same, unless explicitly stated in the Agreement and listed in the scope of supply. If installation and/or maintenance is provided for in the Agreement, Customer shall cooperate with and assist TNA in such a manner as to support and not hinder TNA's performance of the Agreement, and provide TNA access to all materials relevant to the installation of the Products and/or Services and must provide for adequate working space and facilities, and access to and use of information, and Customer's resources and facilities as reasonably determined necessary by TNA, including without limitation at a minimum: (a) mechanical installation of supplied equipment; (b) power supply and signal connection to control cabinet of the supplied equipment; (c) connecting cables to the control cabinet for signal exchange with the general plant control system in accordance with TNA's instructions; (d) Internet connection to the control cabinet of the supplied equipment; (e) supply of compressed air; (f) inspections of statics of existing buildings/platforms, if applicable; (g) official approvals by government and local authorities; (h) noise and dust protection measures within official parameters; (i) execution of official measurements (dust, noise, etc., and required expertise); (j) sufficient hazard detectors, first responder and control systems, lighting protection systems, grounding and potential equalization; (k) oils and lubricants for re-lubrication or change; (l) sanitary and social premises for personnel performing the installation; (m) required materials, operating facilities and operating personnel for any specifically agreed upon test runs and/or guarantee verification in sufficient quantity and quality; (n) security and

hazard-control plans (SIGE); and (o) a construction site coordinator. In the event TNA's scope of supply increases due to reasons attributable to Customer, TNA shall have the right to invoice to Customer corresponding surcharges, which Customer shall pay.

- 6.9 If Customer fails to provide such access, resources and facilities, resulting in TNA's inability to install or maintain or service the Products and/or Services, TNA shall be entitled to charge Customer its standard rates for all related travel time and time TNA personnel are present at the Customer's premises.
- 6.10 Customer must notify TNA in advance if Customer's premises, or parts thereof, might pose a health or safety hazard to TNA's employees or subcontractors. TNA may postpone installation and/or service until Customer remedies such hazards, without being liable to Customer for any damages. Customer will always have a representative present when TNA provides services or installation at Customer's site.
- 6.11 Upon completion of the installation, which shall be determined at the sole discretion of TNA, it shall be the prerogative of Customer to initiate with the commissioning of the equipment, at which point the operation of the Products shall be under TNA's supervision and training, and Customer shall be responsible for all raw materials, auxiliary materials, media, lubricants and consumables, etc., of the appropriate quality and quantity, as well as the timely transport of raw materials and removal of products.

7 Inspection and Testing

- 7.1 Products and Services are deemed to be accepted if they materially meet the written specifications agreed by the Parties.
- 7.2 Immediately upon receipt of the Products, Customer shall inspect it for Defects and non-conformance with the Agreement and will notify TNA in writing within 7 days of receipt of a Product, of any Defects or non-conformance. After such 7 day period, Customer shall be deemed to have irrevocably accepted the Products, if not already previously accepted. After acceptance, Customer shall have no right to reject the Products for any reason or to revoke acceptance. Customer hereby agrees that a 7 day period is a reasonable amount of time for inspection and revocation.
- 7.3 If provided for in writing, Products shall materially achieve specified test values mutually agreed in writing, and TNA shall assist during the trial running of any such testing of the Products.
- 7.4 Customer shall provide personnel for supervision, operation, maintenance and repair, sampling and facilities as well as appropriate auxiliary staff in sufficient quantity and qualification during any trial run or any performance testing of the Products, and shall operate the Products in accordance with applicable guidance and laws, as well as the verbal instructions of TNA.
- 7.5 The Parties shall agree upon a time for the commencement of the testing, if any, but only after adequate training of Customer's personnel. In the event that guaranteed test values are not materially achieved during the guarantee evaluation due to reasons attributable to TNA, TNA shall have 2 months to cure, and a second testing shall be performed at a mutually agreed upon time. Upon materially achieving such guaranteed test values, the Parties shall confirm same in writing. In the event that the guaranteed test values are not materially achieved during the second guarantee evaluation due to reasons attributable to TNA, the Parties will agree upon a mutually satisfactory solution. If the guaranteed test values are not materially achieved during the guarantee evaluation or the second guarantee evaluation due to reasons attributable to Customer, the Products shall be deemed to have met the required test values.

8 Intellectual Property Ownership and Right of Use

- 8.1 All intellectual property rights, e.g., patents, copyrights, trademarks, designs, models, know-how and all proprietary and/or commercial rights and trade secret rights, tools, documentations, etc., in relation to the Products and/or Services delivered and/or used by TNA, are owned by TNA or its licensor(s). No transfer or other grant of rights is given to Customer, unless explicitly stated in writing. This applies even if Products and/or Services have been specifically designed, developed or compiled for Customer.
- 8.2 Unless otherwise agreed in writing, Customer may not make repairs or modifications to the Products and/or Services, nor allow or enable any third parties to do so. Customer may not, nor may enable and/or allow third parties to copy, translate, or reverse engineer any Products and/or Services.
- 8.3 Customer shall not be permitted to affix any other trademark to the Products, or to remove any copyright, trademark or other proprietary rights notices on same, or to use the relevant mark in any other way, or to register it in Customer's own name, and specifically Customer shall not be permitted to register any patent involving, based upon, or for any of the Products and/or Services.
- 8.4 If a third party threatens to infringe any of the intellectual property rights of TNA and Customer has knowledge of it, Customer is obliged to alert TNA immediately and to take all measures necessary to prevent the infringement, and Customer shall lend its full cooperation to any related investigation to be conducted by TNA and at first request of TNA, Customer shall grant TNA or its representatives access to Customer's buildings and systems.

9 Customer's Cooperation

Customer shall timely provide TNA with all details and information required by TNA for the development of Products and/or the delivery of Services, specifications for which will be set forth by TNA in writing. Customer understands that the development of Products and/or the delivery of Service shall be done by TNA based upon same, and TNA shall rely thereon, and Customer guarantees that it is accurate and meets the specifications as TNA shall set forth in writing. TNA shall be entitled to suspend performance of the Agreement, as well as charge additional costs in accordance with its

customary rates, in the event that such materials or data are not made available in the time required or in the prescribed quality or manner.

10 Confidential Information

- 10.1 Confidential Information means (i) the terms of any agreement between the Parties and (ii) any non-public, confidential or proprietary information relating to a disclosing Party, whether or not technical in nature, including any that is designated by the disclosing Party as Confidential Information at the time of its disclosure, either by a written or visual confidentiality designation, or otherwise if such information would, under the circumstances, appear to a reasonable person to be confidential or proprietary. Notwithstanding the foregoing, Confidential Information does not include information, technical data or know-how which: (i) is in the public domain at the time of disclosure or becomes available thereafter to the public without restriction, and in either case not as a result of the act or omission of the receiving Party; (ii) is rightfully obtained by the receiving Party from a third party without restriction as to disclosure; (iii) is lawfully in the possession of the receiving Party at the time of disclosure by the disclosing Party and not otherwise subject to restriction on disclosure or (iv) is approved for disclosure by prior written authorization of the disclosing Party.
- 10.2 Each Party agrees that it will safeguard the confidentiality of the Confidential Information supplied by the other Party and that it will observe the same due care with respect to such information as it would observe with respect to its own Confidential Information. The other Party shall not sell, copy and/or distribute in any way Confidential Information to third parties, without disclosing Party's prior written consent, which consent may be granted or withheld in such Party's sole and absolute discretion.
- 10.3 Each Party agrees that it will restrict the circle of employees or third parties it retains who have access to the other Party's Confidential Information as much as possible and provide such access only on a need to know basis and after binding such employees and third parties to the same level of confidentiality as set forth in these Terms and Conditions.
- 10.4 Immediately upon written request, a receiving Party will return any and all Confidential Information received from the disclosing Party.

11 Termination and Suspension of Performance

- 11.1 If Customer fails to make payment of any amount due on the due date or Customer otherwise fails to perform its obligations under the Agreement or these Terms and Conditions, or if TNA reasonably expects that Customer will not fulfill its obligations, TNA may in its sole and absolute discretion suspend performance under its Agreement with Customer. If the cause for suspension continues for more than thirty (30) days, TNA may, in its sole and absolute discretion, terminate the Agreement (in whole or part) with immediate effect, without being liable for any damages to Customer.
- 11.2 Notwithstanding the above and without any obligation to return any fee or payment, TNA may terminate its relationship with Customer, or may terminate or suspend TNA's delivery of Products and/or Services at any time: (i) for a force majeure event that continues for more than thirty (30) days upon notice; (ii) if Customer fails to pay any amounts due to TNA; (iii) the bankruptcy of Customer has been applied for or if Customer is insolvent; (iv) an attachment is levied on the goods of Customer; (v) Customer is liquidated or discontinued; or (vi) Customer is in violation of any applicable laws or regulations.
- 11.3 Upon suspension and/or termination, all invoiced sums will become immediately due and payable and TNA may at its sole discretion resell any Products and/or Services ordered by Customer, at a public or private sale without notice to Customer and without affecting TNA's rights to hold the Customer liable for any loss or damage caused by breach of contract by Customer.

12 Warranty

- 12.1 TNA warrants its Products against Defects in materials and workmanship for twelve (12) months from the date installation is completed, during which time it will use its best efforts to repair or replace any Defects, but only after Customer gives notice of same without delay, and at its sole discretion, repair or replace any Defective components or parts during the warranty period; provided, however, that the cost of labor and shipping costs herewith is not included in TNA's warranty, and will be charged in accordance with market conditions in the United States. Any problems with the Products arising out of or related to ordinary wear and tear, faulty, careless or improper treatment, inexpert or unauthorized use, misuse, improper storage or unloading, improper or defective environmental circumstances, unauthorized repair, or any other causes that are not attributable to TNA, and any problems involving any such Defects as could have been brought to light in the context of any test being performed pursuant to these Terms and Conditions, shall be for Customer's risk and account.
- 12.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TNA, ITS LICENSORS, THIRD PARTY SUPPLIERS, AND AFFILIATES HEREBY DISCLAIM ALL WARRANTIES, CONDITIONS, CLAIMS OR REPRESENTATIONS WITH RESPECT TO THE TNA PRODUCTS AND/OR SERVICES WHETHER EXPRESS, IMPLIED OR STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, QUALITY, NON-INFRINGEMENT, COMPATIBILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM TNA OR ELSEWHERE WILL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THESE TERMS AND CONDITIONS.

13 Liability and Limitation of Damages

- 13.1 TNA DISCLAIMS ANY AND ALL RESPONSIBILITY OR LIABILITY IN RELATION TO TNA'S PRODUCTS AND/OR SERVICES. NEITHER TNA NOR ITS OFFICERS OR AFFILIATES MAY BE HELD LIABLE WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER FORM OF LIABILITY FOR ANY CLAIM, DAMAGE, OR LOSS, ARISING FROM OR RELATING TO ALL SUCH PRODUCTS AND/ OR SERVICES.
- 13.2 CUSTOMER IS SOLELY RESPONSIBLE AND LIABLE FOR ALL ACTIVITIES CONDUCTED IN RELATION TO TNA'S PRODUCTS BY CUSTOMER'S USERS, EVEN IF SUCH ACTIVITIES WERE TO OCCUR WITHOUT CUSTOMER'S PERMISSION. TNA DISCLAIMS ANY AND ALL RESPONSIBILITY OR LIABILITY IN RELATION TO THE ACTS AND OMISSIONS OF CUSTOMER'S USERS IN RELATION TO TNA'S PRODUCTS. NEITHER TNA NOR ITS OFFICERS OR EMPLOYEES OR AFFILIATES MAY BE HELD LIABLE WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER FORM OF LIABILITY FOR ANY CLAIM, DAMAGE, OR LOSS, ARISING OR RELATING TO ALL SUCH ACTS AND OMISSIONS.
- 13.3 IN NO EVENT SHALL TNA, ITS AFFILIATES OR ITS LICENSORS BE LIABLE, HOWEVER CAUSED AND WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER FORM OF LIABILITY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF INCOME, BUSINESS, SALES, PROFITS (WHETHER ACTUAL OR ANTICIPATED), LOSS OF OR CORRUPTION TO DATA, OR INTERRUPTION OF BUSINESS.
- 13.4 NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT TO THE CONTRARY, TNA'S AGGREGATE LIABILITY FOR ALL CLAIMS OF ANY KIND SHALL NOT EXCEED 5% OF THE TOTAL PAID BY CUSTOMER FOR THE PRODUCTS AND/OR SERVICES IN CONNECTION TO WHICH THE DAMAGING EVENT OCCURRED, OR USD 20,000.00, WHICHEVER IS LESS.
- 13.5 THE LIMITATIONS ON TNA'S LIABILITY ABOVE SHALL APPLY WHETHER OR NOT TNA, ITS EMPLOYEES, LICENSORS OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES ARISING.

14 Indemnification

- 14.1 CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD TNA, ITS PRESENT AND FUTURE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS AND ITS AFFILIATES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, PENALTIES, LIABILITY AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES, IN CONNECTION WITH OR ARISING OUT OF ANY USE OF THE TNA PRODUCTS AND/OR SERVICES OR BREACH OF THIS AGREEMENT, BY CUSTOMER OR ITS USERS.
- 14.2 CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD TNA, ITS PRESENT AND FUTURE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS AND ITS AFFILIATES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND THREATENED CLAIMS BY ANY THIRD PARTY, INCLUDING EMPLOYEES OF CUSTOMER ARISING OUT OF, UNDER OR IN CONNECTION WITH (1) THE DEATH OR BODILY INJURY OF ANY THIRD PARTY, INCLUDING ANY AGENT, EMPLOYEE, CUSTOMER, BUSINESS INVITEE OR BUSINESS VISITOR OF CUSTOMER, OR, (2) THE DAMAGE, LOSS OR DESTRUCTION OF ANY TANGIBLE PERSONAL OR REAL PROPERTY AT CUSTOMER'S PREMISES, BOTH ONLY TO THE EXTENT THAT SUCH WAS NOT A RESULT OF GROSS NEGLIGENCE BY TNA OR ITS PERSONNEL.

15 Insurance

TNA and Customer shall pay all necessary costs to maintain sufficient insurance policies to cover its personnel and premises for activities performed in connection with the Products and/or Services.

16 Severability

If any provision of these Terms and Conditions, the Agreement or any other agreement between the Parties, is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, (i) such provision shall be deemed to be restated to reflect as nearly as possible the original meaning of the terms or agreement in accordance with applicable law, and (ii) the remaining terms, provisions, covenants and restrictions shall remain in full force and effect.

17 Force Majeure

TNA will not be liable for any delay in performing or failure to perform any of its obligations under these Terms and Conditions or the Agreement caused by events beyond its reasonable control. TNA will notify Customer promptly in writing of the reasons for the delay or stoppage (and the likely duration) and will take all reasonable steps to overcome the delay or stoppage.

18 Assignment

Customer is not permitted to assign, delegate or otherwise transfer the Agreement or any rights or obligations hereunder. TNA is permitted at its sole discretion to assign the Agreement or any rights or obligations hereunder to any third party, without giving prior notice.

19 Entire Agreement

The Agreement and these Terms and Conditions contain the entire agreement between TNA and Customer regarding Customer's purchase of the Products and/or Services, and supersedes and replaces any previous communications, representations or agreements, or Customer's additional or inconsistent terms, whether oral or written.

20 No Waiver

The failure to exercise, or delay in exercising, a right, power or remedy provided by the Agreement or these Terms and Conditions or by law shall not constitute a waiver of that right, power or remedy. If TNA waives a breach of any provision of these Terms and Conditions or the Agreement, this shall not operate as a waiver of a subsequent breach of that provision or as a waiver of a breach of any other provision.

21 No Beneficiaries

Any agreement between the Parties is for the sole benefit of the Parties thereto and, except as otherwise contemplated therein, nothing therein expressed or implied shall give or be construed to give any person, other than the Parties thereto, any legal or equitable rights thereunder.

22 No Partnership

Nothing contained in any agreement between the Parties shall be read or construed so as to constitute the relationship of principal and agent or of partnership between the Parties. Neither of the Parties may pledge or purport to pledge the credit of the other Party or make or purport to make any representations, warranties, or undertakings for the other Party.

23 Injunctive Relief

Customer acknowledges that TNA shall suffer irreparable injury in case of breach of the obligations under Articles 8 and 10. Accordingly, in the event of such breach, Customer acknowledges that TNA will be entitled to injunctive relief in any state or federal court of competent jurisdiction within the State of New York. Customer further submits to the personal jurisdiction of such courts for the purposes of any such action.

24 Governing Law and Arbitration

Unless stated otherwise in writing, any and all agreements between the Parties shall be governed by and construed in accordance with the laws of the State of New York, notwithstanding conflict of law principles, and without giving effect to the United Nations Convention on the Contracts for the International Sale of Goods. All disputes and controversies arising out of or relating to these Terms and Conditions or the relationship of the Parties shall be finally and bindingly resolved under the International Arbitration Rules of the American Arbitration Association in front of a sole arbitrator. The place of arbitration shall be New York, New York. The language of the arbitration shall be English. Any award, verdict or settlement issued under such arbitration may be entered by any party for order of enforcement by any court of competent jurisdiction. ANY CAUSE OF ACTION AGAINST TNA, REGARDLESS WHETHER IN CONTRACT, TORT OR OTHERWISE, MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.