

SIMETRY - STANDARD TERMS FOR PROVIDING (I) RENTALS, (II) SERVICES, (III) WIRELESS SERVICES, (IV) WHOLESALE SERVICES OR SALES, AND (V) ONLINE PRODUCT SALES

These terms and conditions (herein, the "Agreement") set forth the agreement between SIMETRY ("SIMETRY") the entity identified in the proposal, work order, field ticket, delivery ticket, notes to pricing, contract, invoice email, facsimile, text message or other communication referencing this Agreement or to which this Agreement is attached (the "Order Document"), and the customer (the "Customer") identified in such Order Document, relating to SIMETRY providing to Customer (i) products, materials, supplies, machinery, parts, tools or equipment (the "Equipment"), (ii) services ("Services"), (iii) SIMETRY's standard usage-based and dedicated wireless data services as further described in the Order Document ("Wireless Services"), (iv) rental of Equipment ("Rental"), sales of Equipment, and (v) online product sales ("Sales"), and all Equipment, Services, Wireless Services, Rental and Sales are referred to collectively as "Transactions", and wholesale Services provided SIMETRY to Customers authorized to resell those Services ("Wholesale Services"), with respect to the matters in this Agreement. Each Party should print and retain a copy of every Order Document. SIMETRY's acceptance of Customer's order is expressly conditioned upon Customer's assent to, and all Transactions will be only in accordance with, this Agreement, notwithstanding different or additional terms and conditions contained on any of Customer's forms, including any Master Service Agreement between Customer and SIMETRY or any of their respective affiliates, which are hereby objected to and rejected, and which will not be binding on SIMETRY. Further, in the event that SIMETRY signs and returns an acknowledgment copy of a Customer work order, purchase order, service agreement, lease, rental agreement or similar document relating to SIMETRY's providing Equipment, Services, Wireless Services, Rental or Sales to Customer, the Customer agrees that SIMETRY signature thereon is provided solely (i) as an accommodation to Customer for Customer's internal administrative purposes only, (ii) does not signify SIMETRY agreement to any terms or conditions contained therein which vary, conflict with, or impose additional obligations to the provisions set forth in this Agreement and (iii) shall be void and of no force or effect and shall not alter, modify, amend or otherwise change the terms of this Agreement. The failure of either party to enforce any provision hereof will not constitute a waiver or preclude subsequent enforcement thereof. No partial invalidity of this Agreement will affect the remainder.

1. Orders; Prices; Term

A. Customer agrees to pay SIMETRY for the Transactions ordered in accordance with the prices and terms set forth in the Order Document, subject, however, to adjustments to conform to SIMETRY price schedule prevailing on the date of (i) delivery of Equipment made the subject of the Sale or Rental, (ii) performance of the Services, or (iii) provision of the Wireless Services. All prices and rates quoted are exclusive of all shipping charges, mobilization and demobilization, customs expenses, import and export expenses, duties, federal, state, local and foreign sales, use, excise and withholding taxes, value added taxes, and other taxes ("Transactional Taxes") that SIMETRY is required by law to collect or that Customer may incur in connection with the use of, or in connection with the payment for, the Transactions. Customer shall advise SIMETRY of its Transactional Taxes status and shall provide SIMETRY with appropriate documentation to support such Transactional Taxes status claim. Customer will promptly notify SIMETRY of any change in Transactional Taxes status and will reimburse SIMETRY for any expenses incurred by SIMETRY resulting from that change. Such charges, if any, shall be for Customer's account and if incurred by SIMETRY then separately stated in SIMETRY's invoices. All documentation, legalization and related items will be Customer's responsibility and account unless otherwise agreed in writing by an authorized SIMETRY signatory.

B. Prices are quoted (i) from the SIMETRY facility where the Equipment made the subject of the Transaction is made available, (ii) from which the personnel providing the Services depart (the "Departure Base"), or (iii) with respect to the Wireless Services based on the requested location(s), type and rate, the stated Wireless Service Commencement Date and the stated number of months for such service (if no number of months is stated, it is deemed to be twelve months). Customer will arrange for shipment of Equipment and pay for all crating, handling, shipping costs, and all mobilization and demobilization costs, if applicable. If Customer requests SIMETRY to arrange for shipment, SIMETRY may at its own election, ship to Customer in a commercially reasonable manner, at Customer's sole risk and expense. SIMETRY may charge twenty percent (20%) of the shipping costs as an administration fee when SIMETRY makes shipping arrangements. Personnel travel and related costs will be as specified in the Order Document, or if not specified then pursuant to SIMETRY's then applicable rates.

C. Prices are based on SIMETRY's standard procedures and specifications for: (i) performing Services, (ii) providing Wireless Services, and (iii) manufacturing and testing Equipment. All costs of additional labor, materials or outside service for modification of such procedures or specifications requested by Customer will be charged to the Customer, including direct and indirect costs, such as technical support, labor, overhead, administrative costs, and shop supplies.

D. Prices for Sales and Rentals may not include the cost of personnel or equipment or aids required to install any Equipment. Upon request, SIMETRY will provide such personnel and equipment or aids at its then applicable rates.

E. Order Documents agreed to by Customer and SIMETRY may be cancelled or modified only with SIMETRY written consent. By executing the Order Document referencing this Agreement or by accepting the Equipment, Services, Rental or Sales, Customer agrees to be bound by a subsequent written (including by email, facsimile, text message) modifications to the Equipment, Services, Rental or Sales, and pricing reflected in the original or subsequent mutually accepted Order Document (including a paid invoice). Any cancellation, modification or Customer requested delays of an Order Document will result in a charge equal to up to (a) thirty percent (30%) of the quoted or estimated costs and fees if relating to standard Services, Equipment or Rentals, (b) one hundred percent (100%) of the quoted or estimated costs and fees if nonstandard or special Services, Equipment or Rentals, of the full purchase order price, and (c) 100% of the fees that will accrue during the unexpired portion of the Term (as hereinafter defined) with respect to Wireless Services.

F. The term of this Agreement (the "Term") will begin on the Commencement Date (as hereinafter defined) and extend for the period specified in the Order Document. Upon expiration of the then existing Term, the Term shall, unless otherwise stated on a renewal Order Document, renew for an additional period of the same length as the then existing Term unless either Party delivers written notice to the other Party thirty (30) days prior to the expiration of such Term. SIMETRY may adjust the rates for month-to-month Transactions via written notice to Customer. All Transactions ordered under this Agreement are subject to availability. The "Commencement Date" for each Transaction will be the date specified in the Order Document, or with respect to Wireless Services the date upon which SIMETRY notifies Customer that the Service is available for Customer's use.

G. SIMETRY reserves the right to approve or reject the credit of any Customer and to establish credit terms for each Customer. SIMETRY may terminate this Agreement or modify credit terms at any time while furnishing Equipment, Services or Rentals to Customer without further liability if SIMETRY assessment, in SIMETRY's sole discretion, of Customer's financial condition materially changes.

H. Standard payment terms for retail end-user services are net thirty (30) days after Customer's receipt of SIMETRY invoice and, as described in Section 1(L) below, net seven (7) days for wholesale services, except as otherwise provided elsewhere herein. All payments, unless otherwise specified in the proposal, work order, contract, notes to pricing or invoice referencing this Agreement or to which this Agreement is attached, shall be made in U.S. Dollars to SIMETRY at PO BOX 842364, Dallas, TX 75284-2364. If credit or payment terms are not met, in addition to its other legal rights, SIMETRY may (i) defer or cancel, at its option, further shipments or use of Equipment, the performance of Services or provision of service personnel, and (ii) charge Customer interest at the lesser of (a) eighteen percent (18%) per annum, or (b) the maximum rate permitted by applicable law, on the unpaid balance due. Customer will pay all of SIMETRY's costs, including attorney's fees and court costs, incurred in connection with the collection of past due amounts from Customer. Nothing herein shall be interpreted to prevent SIMETRY from claiming, filing or enforcing any liens when the rights thereto arise directly from Customer's failure to pay SIMETRY in breach of this Agreement.

I. Any expenses, charges, goods, inventory, equipment or other personal property provided to Customer by SIMETRY from or involving third parties shall be supplied to Customer at SIMETRY's cost, plus administration fee not to exceed twenty percent (20%), unless otherwise agreed to in writing.

J. Customer shall notify SIMETRY within five (5) business days after receipt of an invoice if Customer in good faith disputes all or some element of the invoice. Customer and SIMETRY shall promptly attempt to affect a resolution of any dispute. Notwithstanding the foregoing, Customer shall pay the portion of any invoice that is not disputed in good faith.

K. If Customer has a credit balance with SIMETRY, then SIMETRY shall be entitled to set off such credit against other amounts owed by Customer by providing Customer with written notice describing (i) the basis for such credit balance in reasonable detail, and (ii) how the credit will be applied. The terms of this section apply to, and includes, Customer's and SIMETRY's respective affiliates.

L. For Wholesale Services, SIMETRY will provide network data service to Customer for a set per month fee, per data plan, in addition to a one-time activation fee for each new data plan. The monthly billing period for Wholesale Services is a thirty (30) day period and will not fluctuate in length regardless of the number of days in the actual month. For Wholesale Services, Customer shall pay any activation fees and the first monthly usage fees no later than seven (7) calendar days after activation of a new account. Subsequent monthly usage fees shall be paid no later than seven calendar days after the date of each monthly renewal. Activation of service prior to the SIMETRY's receipt of applicable activations fees and usage fees shall be deemed an extension of credit from SIMETRY to Customer. The foregoing provisions notwithstanding, SIMETRY will not extend more than \$3,000.00 in credit to Customer at any one-time. Further, SIMETRY shall have no obligation to extend credit to the Retailer and may, in its sole, absolute and unfettered discretion, require Customer to provide a deposit prior to the activation of wholesale services.

2. **Delivery; Disclaimer** SIMETRY will use its commercially reasonable efforts to have Equipment ready for shipment by the agreed date, subject to receipt by SIMETRY of all necessary Customer information, including any approval of drawings. **HOWEVER, SIMETRY ASSUMES NO LIABILITY FOR DAMAGES INCURRED AS A RESULT OF ITS LATE DELIVERY OF EQUIPMENT, REGARDLESS OF CAUSE.** Unless otherwise agreed, delivery of Equipment will occur at the Departure Base. If Customer fails to inspect the Equipment immediately upon delivery, Customer shall be deemed to have accepted as delivered the Equipment.

3. **Title; Risk of Loss** Title to, and risk of loss of, Equipment will pass to Customer upon shipment of Equipment ("FOB Shipping Point"). If SIMETRY has not received shipping instructions at the time of delivery or if Customer requests that SIMETRY store the Equipment until further instruction or if Customer does not inform SIMETRY of shipping instructions for other reasons, SIMETRY shall act as a bailee of such Equipment and may charge Customer its customary storage rates. During any such bailment, Customer will maintain all-risk property insurance on Equipment, at its replacement value, and SIMETRY will not be liable for deterioration or loss of Equipment resulting from atmospheric conditions, acts of God, or other events not within SIMETRY reasonable control.

4. **Acceptable Use** Customer's use of Wireless Services must comply with the then-current version of SIMETRY's Acceptable Use Policy available at [https://www.SIMETRY.com/terms-conditions/\"AUP\"](https://www.SIMETRY.com/terms-conditions/\). SIMETRY reserves the right to amend the AUP from time to time, effective upon written notice to Customer. In the event a material modification of the AUP has a material and detrimental effect on Customer, Customer may terminate the affected Wireless Service(s) without penalty upon ten (10) business days' written notice to SIMETRY. Customer may not use the Wireless Service in any manner that interferes with the operation of SIMETRY's Network or the network of any wireless or wireline service provider whose services SIMETRY re-sells to Customer as part of the Wireless Service ("Underlying Network"), or the use of SIMETRY's network or any Underlying Network by other customers on that network, nor may Customer use the Wireless Service for any unlawful purpose or in any unlawful manner. SIMETRY reserves the right to suspend the Wireless Service or terminate this Agreement effective upon notice for a violation of the AUP or this section.

5. Not for Resale

A. Except as described in Section 5(B) below, Customer represents that it does not operate as an internet service provider, is not a telecommunications carrier, reseller or shared tenant service provider registered with the FCC, and the Wireless Services are not for resale. If Customer becomes an internet service provider, telecommunications carrier, reseller or shared tenant service provider registered with the FCC or an international call center, SIMETRY may suspend Wireless Service, terminate this Agreement or revise Customer's pricing and terms to reflect Customer's reseller status retroactively to the date that Customer's status changed.

B. For Wholesale Services, Customer is permitted to resell SIMETRY Services under the following conditions:

Customer must maintain a current business license certificate (or state equivalent) on file and provide a copy, with Tax ID, to SIMETRY.

Customer is solely responsible for obtaining and maintaining any and all necessary state and federal

licenses, certifications, and authorizations required for Customer to resell SIMETRY Services. SIMETRY assumes no responsibility for Customer's violation of any state or federal laws or regulations related to Customer's resale of SIMETRY Services.

Customer shall be responsible for all sales, service and support of each data plan. Customer may set its own pricing and plan details for its customers and should establish its own brand with unique benefits and features as Customer deems fit.

Customer may not use the brand name of any underlying wireless service provider, or SIMETRY or other trade names or marks associated with any underlying wireless service provider, or SIMETRY in any marketing of any kind, including but not limited to television, radio, print, verbal or sponsorship marketing.

The underlying wireless service provider has the authority to mitigate network congestion, suspend data access or cancel SIM card access from its network for excessive data consumption, illegal activity, misuse or abuse of service. Further, the underlying wireless service provider has the right to change plan details and availability at any time and, although existing plans are typically "grandfathered" in and allowed to remain in place, the underlying wireless service provider's decisions regarding plan details and availability are left to its sole, absolute and unfettered discretion. The rights set forth in this Agreement shall have no effect on such rights of the underlying wireless service provider. Accordingly, Customer shall not be entitled to any refund of activation fees or any monthly usage fees in the event of cancellation of service by the underlying wireless service provider for any reason.

6. Termination

A. **Termination by Customer for Cause.** If SIMETRY fails to perform a material obligation under this Agreement and does not remedy such failure within ten (10) business days following written notice from Customer ("SIMETRY Default"), Customer may terminate the affected Rental, Service, Wireless Service or this Agreement without further liability except for the payment of all accrued but unpaid charges.

B. **Termination of Wireless Services by Customer for Convenience.** Customer may, at any time and without cause, terminate any Wireless Service upon thirty (30) days written notice to SIMETRY, provided the following: (i) If Customer terminates any Wireless Service prior to the applicable Commencement Date(s), Customer shall reimburse SIMETRY for all costs of implementation of terminated Wireless Service(s) (including third party cancellation fees, if any), or (ii) If Customer terminates any Wireless Service on or after the applicable Commencement Date(s), Customer immediately shall pay SIMETRY all charges for Wireless Service(s) previously rendered and rendered through the date of termination.

C. **Termination by SIMETRY.** SIMETRY may suspend Wireless Services and/or terminate this Agreement or any Wireless Service with no further liability if (i) Customer fails to make payment as required under this Agreement and such failure remains

uncorrected for five (5) days following written notice from SIMETRY, (ii) Customer fails to perform any other material obligation under this Agreement and does not remedy such failure within ten (10) business days following written notice from SIMETRY, or (iii) Customer or any of Customer's users violates the AUP (hereinafter collectively referred to as "Customer Default"). In the event of a Customer Default, SIMETRY shall have the right to (i) suspend Rental, Service(s) or Wireless Service(s) to Customer, (ii) cease accepting or processing orders for Rentals, Services or Wireless Service(s); and/or (iii) terminate this Agreement or any Rental, Service or Wireless Service. If this Agreement is terminated due to a Customer Default, Customer shall remain liable for charges outlined in Section 6.B herein.

Customer agrees to pay SIMETRY's reasonable expenses (including attorney and collection agency fees) incurred due to a Customer Default. In the event of bankruptcy or insolvency of Customer, or if Customer makes any assignment for the benefit of creditors or take advantage of any act or law for relief of debtors, then SIMETRY shall have the right to terminate this Agreement without further obligation or liability on its part. This Agreement may be terminated, or the Rentals, Services or Wireless Services may be suspended, immediately by SIMETRY in the event SIMETRY is prohibited from furnishing such Rentals, Services or Wireless Services due to any regulation and/or ruling, including modifications thereto, by any regulatory agency, legislative body or court of competent jurisdiction. In the event of any such termination or suspension due to SIMETRY being prohibited from furnishing such Rentals, Services or Wireless Services pursuant to this Section 6.C, SIMETRY will provide Customer as much prior notice as reasonably possible.

7. **Network Maintenance.** SIMETRY may perform system maintenance with respect to the Wireless Services upon written notice to Customer. Customer acknowledges that SIMETRY's regular or everyday network maintenance may result in certain Wireless Service interruptions. If scheduled or unscheduled network maintenance should result in the interruption of Wireless Service, to the extent possible it shall be accomplished after written notification to Customer (if such notification is oral due to unscheduled maintenance, it shall be followed by written facsimile or e-mail notification if reasonably possible) and will be completed within a reasonable time. In no event shall interruption for system maintenance constitute a failure of performance by SIMETRY.

8. Special Rental Terms

A. Customer acknowledges that Customer has inspected the Equipment prior to taking possession thereof, finds it in good working order and repair, and suitable for Customer's needs.

B. Customer represents that it will use the Equipment in a careful and proper manner and shall comply with all SIMETRY specifications and all laws and regulations relating to the possession, use, storage and maintenance of the Equipment.

C. In the event the parties agree that Customer shall operate Equipment in connection with a Rental, then Customer represents that such Equipment will be operated by skilled personnel, trained in the use of the Equipment. Customer will keep all Equipment free from liens and encumbrances arising in connection with Customer's operations and/or use of the Equipment.

D. Customer, at its sole cost, shall provide and maintain insurance against the loss, theft, damage or destruction of the Equipment used in connection with a Rental in an amount not less than the replacement value.

E. Upon the expiration of the rental Term, Customer will at its sole cost return or coordinate the return of the Equipment used in connection with a Rental to the facility designated by SIMETRY, in working condition, reasonable wear and tear excepted. Upon receipt, SIMETRY will service and inspect the Equipment, and in the event that SIMETRY determines any is damaged, then Customer shall be responsible for all costs for service work, inspections and parts required to bring the Equipment to good working condition.

F. Customer shall be solely responsible for any damages, loss or destruction to SIMETRY's equipment or products, other than normal wear and tear.

9. **Special Terms & Conditions for Online Purchases.** By using SIMETRY's online store at: <https://www.SIMETRY.com/store>, Customer is accepting these Special Online Purchase Terms & Conditions ("Purchase T&Cs"). Customer should read these Purchase T&Cs before using the online store or placing an order.

A. **Contract for Purchase.** By completing and submitting an electronic order form in SIMETRY's online store, Customer is making an offer to purchase products which, if accepted by SIMETRY, will result in a binding contract. Customer will receive a confirmation email from SIMETRY indicating that the contract has been formed. By using the online store to buy products, Customer confirms that Customer is at least 18 years old and is consenting to this Agreement, including the Purchase T&Cs and to SIMETRY's Privacy Policy.

B. **Ordering.** After Customer completes and submits an online order, Customer will be directed to SIMETRY's third party payment processing vendor for submission of payment. Orders will not be complete, and products will not be shipped, until Customer's payment has been authorized and receipt of payment is confirmed by SIMETRY's payment processing vendor. SIMETRY will not be liable if there is a delay and SIMETRY will not accept Customer's order if payment is not authorized and confirmed. For additional information on SIMETRY's third party payment processing vendor, please contact 1-833-746-3879 or visit <https://SIMETRY.com/returns>.

C. **Order Confirmation.** After Customer has placed an online order, and Customer's payment has been accepted and confirmed, Customer will receive an email from SIMETRY confirming the details of the order. SIMETRY is not obligated to accept Customer's order, and may refuse Customer's order, for example: (i) the product Customer is attempting to order is not in stock, (ii) Customer's payment is not authorized, (iii) a technical error occurs, (iv) Customer does not complete the order, or Customer cancels the order. SIMETRY reserves the right to refuse any order.

D. **Pricing and Payment.** Prices in SIMETRY's online store are quoted in U.S. dollars and payment can only be accepted in U.S. dollars. Applicable fees, taxes, and shipping costs will be added to the price of Customer's purchase.

While SIMETRY makes every effort to ensure that the products shown on SIMETRY's website are currently available at the price shown, SIMETRY cannot guarantee that this will always be the case. If products Customer has ordered are unavailable, Customer will be notified as soon as reasonably possible.

The price Customer pays is the price of the products shown at the time Customer places the order, even if the price of the product has since changed.

Customer's payment card or other payment method will be debited for Customer's order at the time the order is placed. By submitting an order through SIMETRY's online store, Customer expressly agrees not to request a "charge back" of any fees or payments for said orders, and that Customer will not dispute or attempt to adjudicate an agreed upon price through Customer's bank, payment card company, or provider of another payment method. Rather, Customer agrees to be bound by these Purchase T&Cs, and the Returns and Exchanges of Online Purchases process described in Section 9.F., and contact SIMETRY to resolve the issue, return or exchange the product.

E. **Delivery Information.** For information about delivery and shipping charges, where applicable, Customer should review the individual product pages. For products that require shipping, Customer will receive an email when the order has been shipped.

F. **Returns and Exchanges of Online Purchases.** Prior to returning or exchanging any product or accessory ("product") to SIMETRY Customer must first obtain a return merchandise authorization ("RMA"). To obtain an RMA, please visit: <https://SIMETRY.com/returns> and provide the required information.

Once Customer has obtained an RMA, Customer will be provided a printable return shipping label. Customer may use the return shipping label to return or exchange a product within 14 days of purchase (the "Return Period"). Shipping charges and a restocking fee of 20% of the purchase price will apply to returns or exchanges of all products, except that restocking fees will not apply for defective products.

Customer is permitted to make one exchange per product. When making an exchange, Customer must return the product (including, as applicable, all components, written materials/instructions and accessories included as part of the original purchase)

SIMETRY - STANDARD TERMS FOR PROVIDING (I) RENTALS, (II) SERVICES, (III) WIRELESS SERVICES, (IV) WHOLESALE SERVICES OR SALES, AND (IV) ONLINE PRODUCT SALES

in the ORIGINAL BOX. All merchandise must be in like-new condition and accompanied by the original receipt.

Products must be returned within the Return Period to avoid being assessed additional fees.

If Customer returns a product, even by mistake, without obtaining an RMA or after the return period has expired, Customer will not receive a refund and the merchandise Customer returned to SIMETRY will not be returned to Customer.

If Customer receives a product through a promotion, bulk discount, sale, or other similar offer, and Customer returns or exchanges that product, SIMETRY will charge back any promotional value or discount and Customer will receive a credit or refund for each individual product at the promotional or discounted price paid by Customer for that individual product with any other applicable adjustments.

At SIMETRY's discretion, SIMETRY may decline Customer's return or charge Customer a fee for a missing item, or for items that SIMETRY determine are damaged, require service, or are not in their original packaging. If Customer returns and SIMETRY accepts Customer's merchandise within the Return Period, SIMETRY will refund Customer's purchase price, subject to the restocking fee. If Customer returns a product without a UPC on the box, the amount of the refund will be reduced by the amount of any mail-in rebate that was available for the product between the date of purchase and the date received by SIMETRY. The purchase price of Customer's product will be refunded to the payment method Customer utilized to make Customer's purchase. If Customer returns a purchase that Customer billed to Customer's SIMETRY account, refunds will be credited towards Customer's SIMETRY account.

If Customer's return or exchange requires SIMETRY to remove installed equipment from a fixed location or vehicle in order to complete the return or exchange, Customer will be charged a service fee.

SIMETRY is not responsible for technological changes, updates, or depreciation. Products cannot be returned or exchanged due to changes in third party support of underlying technology. Custom or special orders cannot be returned or exchanged, and include, but are not limited to, products made to custom specifications, products that are cut to length, or products that are altered by request. Special orders cannot be canceled once placed (see Section 1E).

Before returning or exchanging any product that has data in its memory, Customer should transfer all data Customer wishes to retain to another file source that will not be returning to SIMETRY. Once a product is returned, it will be wiped of any Customer data and that data will not be recoverable. SIMETRY is not responsible for any data lost as a result of a return or exchange of a product.

Additionally, prior to Customer's return or exchange, Customer should be certain to erase data on any removable or portable memory cards or modules (such as a SIM Card or SD Card) returned or exchanged individually or along with a product in order to help protect any sensitive information.

If Customer intends to terminate a service associated with an online product purchase, returning a product does not automatically terminate Customer's service. Customer must contact SIMETRY and specifically inform SIMETRY that Customer would like to terminate Customer's service in accordance with this Agreement.

10. Confidentiality. The parties acknowledge and agree that all equipment, services and documents provided by one party to the other party under this Agreement (the "Confidential Information") are considered TRADE SECRET, PROPRIETARY, and CONFIDENTIAL INFORMATION of the disclosing party. The receiving party, therefore, agrees that receiving party shall exercise due care to prevent disclosure of the disclosing party's Confidential Information to any unauthorized persons or entities. The receiving party further agrees not to reverse engineer, copy, modify, manufacture or practice any of the Confidential Information. Notwithstanding any other provision of this Agreement, all Confidential Information is and shall remain the sole and exclusive property and proprietary information of disclosing party, and is disclosed in confidence by disclosing party in reliance on receiving party's agreement to maintain such Confidential Information in confidence and not to use or disclose such Confidential Information to any other person. For purposes of this Agreement, the term Confidential Information shall not include information that (a) was in the public domain at the time of disclosure, (b) was published or otherwise became a part of the public domain after disclosure through no fault of receiving party, (c) was disclosed to receiving party by a third party who (to the best of receiving party's knowledge) had no duty of confidentiality to disclosing party, or (d) was independently developed by receiving party without reference to the Confidential Information. Notwithstanding the foregoing, SIMETRY may identify Customer as a customer or client.

11. Ownership of Intellectual Property.

A. In the course of performance of the Agreement, in an effort to address and provide solutions for problems that are specifically related to the performance of the Agreement, employees of SIMETRY may conceive or make new inventions, ideas, or discoveries that may be protected by patent or copyright or maintained as a trade secret (the "Intellectual Property"). Subject to the obligation of the respective employees of SIMETRY to assign their interest in such Intellectual Property to SIMETRY, Customer and SIMETRY agree that SIMETRY shall own all Intellectual Property conceived or made during the Term partially or solely by any SIMETRY employee(s).

B. Notwithstanding any other provision herein, Customer and SIMETRY agree that SIMETRY shall have the right to use information obtained from the Equipment, Services and Wireless Services provided to Customer, aggregated without regard to source, to analyze and improve SIMETRY services, methods or devices.

12. Limited Warranty. Notwithstanding any other provision of this Agreement to the contrary, SIMETRY agrees at its own expense to:

A. **SIMETRY WARRANTS THAT THE EQUIPMENT WILL BE IN GOOD WORKING ORDER UPON DELIVERY. SIMETRY WARRANTS THAT THE SERVICES AND WIRELESS SERVICES WILL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER.**

B. **EXCEPT AS EXPRESSLY SET FORTH UNDER THE TERMS OF THIS AGREEMENT, SIMETRY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, SERVICES AND WIRELESS SERVICES, AND PRODUCTS OFFERED ON SIMETRY'S ONLINE STORE THEIR RESPECTIVE DURABILITY, CONDITION, MERCHANTABILITY, OR FITNESS, FOR ANY PARTICULAR PURPOSE. CUSTOMER KNOWLEDGES ACCEPTANCE OF THE EQUIPMENT, PRODUCTS, SERVICES AND WIRELESS SERVICES AS AN "AS IS, WHERE IS" BASIS, WITH "ALL FAULTS" AND WITHOUT ANY RECOURSE WHATSOEVER AGAINST SIMETRY AND ITS AFFILIATES. THERE IS NO WARRANTY THAT THE EQUIPMENT, PRODUCTS, SERVICES OR WIRELESS SERVICES ARE SUITED FOR CUSTOMER'S INTENDED USE, OR THAT THE EQUIPMENT, PRODUCTS, SERVICES OR WIRELESS SERVICES ARE FREE FROM DEFECTS OR CONTAMINANTS. CUSTOMER ASSUMES ALL RISKS ASSOCIATED WITH THE EQUIPMENT, PRODUCTS, SERVICES AND WIRELESS SERVICES AND RELEASES SIMETRY, ITS AFFILIATES, AND THEIR RESPECTIVE OWNERS, DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND VENDORS ("GROUP") FROM ALL LIABILITIES AND DAMAGES (INCLUDING LOST PROFITS, PERSONAL INJURY, AND SPECIAL, INCIDENTAL AND CONSEQUENTIAL DAMAGES IN ANY WAY CONNECTED WITH THE EQUIPMENT, PRODUCTS, SERVICES AND WIRELESS SERVICES, THEIR OPERATION OR USE OR ANY DEFECT OR FAILURE THEREOF OR A BREACH OF SIMETRY'S OBLIGATIONS HEREIN.**

C. **CUSTOMER ACKNOWLEDGES AND AGREES THAT SIMETRY'S THIRD-PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS AGREEMENT AND SIMETRY DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS AGREEMENT.**

D. **IN THE EVENT OF A BREACH OF THE ABOVE EQUIPMENT WARRANTY, SIMETRY SHALL, AT ITS SOLE COST AND EXPENSE, REPAIR OR REPLACE THE EQUIPMENT. IN THE EVENT OF A BREACH OF THE ABOVE SERVICE WARRANTY, SIMETRY SHALL RE-PERFORM THE SERVICES WITHIN THIRTY (30) DAYS AFTER THE SERVICES WERE PERFORMED.**

E. SIMETRY warrants that the use or sale of Equipment, Services or Wireless Services will not infringe on any valid United States patents of others, as of the date of delivery of the Equipment or performance of the Services, by reason of the use or sale of such Equipment, Service or Wireless Service per se, and hereby agrees to hold Customer harmless against any judgment for damages for infringement of any such valid United States patent, in and when used in accordance with this Agreement and provided that Customer promptly notifies SIMETRY in writing upon receipt of any claim for infringement, or upon the filing of a suit for infringement, and shall afford SIMETRY full opportunity to answer such claims or suit, control the defense of such suit and settle or compromise same in SIMETRY's sole discretion. SIMETRY does not warrant that Equipment Services or Wireless Services made or provided under special order will not infringe any third party's patents or proprietary rights, and Customer shall bear sole responsibility for assuring that such Equipment Services or Wireless Services do not so infringe and shall protect, defend, indemnify and hold harmless SIMETRY and its Group from any such claims.

THIS LIMITED EXPRESS WARRANTY, AND THE STATED REMEDIES FOR BREACH THEREOF, SHALL BE IN LIEU OF, AND CUSTOMER HEREBY WAIVES, ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES FOR GOOD AND WORKMANLIKE PERFORMANCE, MERCHANTABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, AND THOSE WARRANTIES ARISING FROM A COURSE OF PERFORMANCE, A COURSE OF DEALING OR TRADE USAGE.

G. **CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT (1) CUSTOMER HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS; (2) CUSTOMER IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN SIMETRY AND THE UNDERLYING CARRIER; (3) THE UNDERLYING CARRIER HAS NO LIABILITY OF ANY KIND TO CUSTOMER, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE; (4) MESSAGES OR DATA TRANSMISSIONS MAY BE DELAYED, DELETED OR NOT DELIVERED, AND 911 CALLS MAY NOT BE COMPLETED; (5) THE UNDERLYING CARRIER CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE WIRELESS SERVICES. CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR.**

13. Indemnities.

A. **TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO DEFEND WITH COUNSEL APPROVED BY SIMETRY, INDEMNIFY, RELEASE, AND HOLD HARMLESS SIMETRY AND ITS GROUP FROM AND AGAINST ALL LIABILITIES, CLAIMS, LOSSES, DAMAGES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S AND/OR LEGAL FEES AND EXPENSES) HOWEVER ARISING OR INCURRED, RELATED TO (a) ANY INCIDENT, DAMAGE TO PROPERTY, INJURY OR DEATH OF ANY PERSON, CONTAMINATION OR ALLEGED CONTAMINATION, OR VIOLATION OF LAW OR REGULATION CAUSED BY OR CONNECTED WITH THE (i) USE, POSSESSION OR CONTROL OF THE EQUIPMENT DURING THE TIME OF RENTAL OR (ii) BREACH OF THIS AGREEMENT, WHETHER OR NOT CAUSED IN PART BY THE ACTIVE OR PASSIVE NEGLIGENCE OR OTHER FAULT OF ANY PARTY INDEMNIFIED HEREIN AND ANY OF THE FOREGOING ARISING OR IMPOSED IN ACCORDANCE WITH THE DOCTRINE OF STRICT OR ABSOLUTE LIABILITY (CUSTOMER ALSO AGREES TO WAIVE ITS WORKER'S COMPENSATION IMMUNITY, TO THE EXTENT APPLICABLE. CUSTOMER'S INDEMNITY OBLIGATIONS SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT), (b) CONTENT OF ANY COMMUNICATION TRANSMITTED OR UPLOADED VIA THE WIRELESS SERVICES HEREUNDER, (c) THE USE OF WIRELESS SERVICES HEREUNDER, AND (d) ANY INFORMATION, PRODUCT, SERVICE, SOFTWARE OR OTHER ITEM(S) ORDERED THROUGH OR PROVIDED BY VIRTUE OF THE INTERNET WITH RESPECT TO THE WIRELESS SERVICES HEREUNDER. CUSTOMER SHALL MAKE NO CLAIM AGAINST SIMETRY REGARDING SAID CONTENT, OR RESPECTING ANY INFORMATION, PRODUCT, SERVICE, SOFTWARE OR OTHER ITEM(S) ORDERED THROUGH OR PROVIDED BY VIRTUE OF THE INTERNET WITH RESPECT TO THE WIRELESS SERVICES HEREUNDER. ALL OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS UNDER THIS PARAGRAPH SHALL BE JOINT AND SEVERAL.**

B. **IN FURTHERANCE OF, BUT NOT IN LIMITATION OF THE INDEMNITY PROVISIONS IN THIS AGREEMENT, CUSTOMER EXPRESSLY AND SPECIFICALLY AGREES THAT THE FOREGOING OBLIGATION TO INDEMNIFY SHALL NOT IN ANY WAY BE AFFECTED OR DIMINISHED BY ANY STATUTORY OR CONSTITUTIONAL LIMITATION OF LIABILITY OR IMMUNITY CUSTOMER ENJOYS FROM SUITS BY ITS OWN EMPLOYEES, THE DUTY TO INDEMNIFY WILL CONTINUE IN FULL FORCE AND EFFECT NOTWITHSTANDING THE EXPIRATION OR EARLY TERMINATION OF THE AGREEMENT.**

C. Customer shall not be obligated to indemnify SIMETRY for that part of any that liability, claim, loss, damage, or expense caused solely by the intentional misconduct or sole negligence of SIMETRY.

14. Insurance.

A. Customer, at its sole cost and expense, shall maintain and carry insurance in the minimum amounts set forth below, such insurance to be effective prior to the delivery of any Equipment or machines or equipment constituting a Rental, and commencement of any Services or Wireless Services under this Agreement.

- General Liability - Including contractual liability with limits of:
\$1,000,000 Per Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
- Automobile Liability (if Customer transports Equipment) - With limits of \$1,000,000 Combined Single Limit
- Excess Liability - With limits of \$5,000,000 Aggregate
- Property insurance for the full replacement cost of the Equipment, including coverage for all risks of loss or damage to the Equipment
- Workers Compensation and Employer's Liability in compliance with local statutory requirements.
- Any other insurance reasonably required by applicable law with respect to the Equipment, Services or Wireless Services being provided.

B. Upon written request by SIMETRY, Customer shall furnish certificates of insurance evidencing the fact that adequate insurance to support Customer's obligations hereunder has been secured.

C. Customer shall obtain insurance policies that provide, or are endorsed to provide, that all insurance required hereunder is primary and non-contributory to any other insurance maintained by SIMETRY. SIMETRY shall be named as an additional insured for liability insurance and, if applicable, additional loss payee for property insurance. Any deductibles or self-insured retentions shall be the sole responsibility of the Customer. All insurance required by the Agreement shall include a waiver of rights of recovery against SIMETRY or its insurers by the Customer and its insurers, as well as a waiver of subrogation against SIMETRY or its insurers. The policies required hereunder shall provide that SIMETRY must receive not less than 30 days' notice prior to any cancellation.

15. Compliance with Laws. Each party shall comply with all applicable laws in connection with the performance of this Agreement. Each party warrants, represents and agrees that in securing this Agreement it has complied, and in performing this Agreement it shall comply, with all applicable laws, statutes, regulations and orders relating to anti-bribery, anti-corruption, anti-money laundering, competition. Each party agrees to indemnify, defend and hold harmless the other party from and against all claims, demands, causes of action, and proceedings of every kind and character without limit with respect to the failure of any member of the indemnifying party's Group to comply with this provision. This section shall survive termination or cancellation of this Agreement.

16. Assignment. Neither Party may assign this Agreement without the express written consent of the other Party, which consent shall not be unreasonably withheld. However, either Party may assign the Agreement to any entity controlled by, under the same control as, or controlling said Party and in connection with any merger, consolidation, recapitalization or reorganization, involving in each case the sale of all or substantially all of the capital stock or assets of such Party or any parent, subsidiary or commonly-owned corporation of such Party without the other Party's consent, provided that (a) the assigning Party has paid all outstanding invoices in full, and (b) the assigning Party promptly notifies the other Party of such assignment or transfer. Any such assignment or transfer of a Party's rights or obligations without the other Party's consent or as permitted above shall constitute a default of a material obligation.

17. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person (including any of Customer's users), association, state, political subdivision, governmental agency or other entity other than the Parties and their respective successors and permitted assigns any legal or equitable right, benefit, claim or remedy of any nature under or by reason of this Agreement, including, without limitation, customers of Customer. The Parties agree that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the Parties, and any attempt by a third party to enforce, or otherwise seek a direct benefit from, any provision of this Agreement, shall be void and of no force or effect.

18. Force Majeure. Except for the obligation of Customer to make payments when due, neither party shall be liable for delays in performance or for non-performance, occasioned or caused by Force Majeure. Force Majeure means any event beyond the reasonable control of the party claiming to be affected thereby, including, without limitation, acts of God, storms (except as may otherwise be expressly provided in the Contract), floods, war, fire, labor disputes, acts of the public enemy, public disorder, terrorism, insurrections, riots or rules or regulations of any governmental authority asserting jurisdiction or control, compliance with which makes continuance of operations impossible. Upon the occurrence of Force Majeure, the party affected shall give prompt notice thereof to the other party. If the event of Force Majeure continues for more than sixty (60) days, then either party may terminate the Transaction made the subject of this Agreement, and this Agreement.

19. Consequential Damages: Limitation of Liability.

A. Notwithstanding any provision in this Agreement, in no event shall SIMETRY be liable to Customer for punitive or exemplary, indirect, incidental or consequential damages resulting from or arising out of this Agreement, including, without limitation, loss of profit, loss of product, loss of reserves, loss of data or costs of procurement of substitute wireless services, loss or inability to use property and equipment and business interruption, or failure to meet contractual obligations owed to others, however same may be caused, regardless of ownership, regardless of whether or not occasioned by or resulting from negligence, strict liability, breach of warranty or other fault of SIMETRY, as the case may be, in whole or part, whether sole, joint, active or passive, excepting acts or omissions constituting willful misconduct committed by SIMETRY or any member of its Group, and Customer shall indemnify, defend and hold SIMETRY harmless from such claims made against SIMETRY.

B. Furthermore, SIMETRY shall not be liable to Customer or any third party, either in contract or in tort, for unauthorized access of Customer's or its users' network or other breaches of Customer's or its users' network security, including, but not limited to, unauthorized access to or alteration, theft or destruction of files, programs, procedures or information through accident, fraudulent means or devices, or any other method.

C. Notwithstanding any provision in this Agreement, in no event shall SIMETRY total liability under this Agreement for claims, damages, causes of action, demands, judgments, indemnities, fines, penalties, awards, losses, costs and expenses, including attorney fees and costs of litigation, exceed the amount of SIMETRY invoice for the affected portion of the Transaction.

D. In no event shall SIMETRY's third-party suppliers be liable to Customer or any other party for any loss arising out of the provision of Wireless Services hereunder and Customer hereby waives the right to make a claim against any such supplier, except to the extent that Customer has separately established a contract with said supplier for wireless services or a wireless component.

E. In any jurisdiction that limits the scope of or precludes limitations or exclusion of liability, remedies or damages or do not allow implied warranties to be excluded, the limitation or exclusion of remedies, damages or liability set forth above are intended to apply to the maximum extent permitted by law.

20. Independent Contractor. SIMETRY is an independent contractor with respect to Customer, and neither Customer nor anyone used or employed by Customer shall be deemed for any purpose to be the agent or employee of SIMETRY with respect to any Transaction. Customer shall have no direct control over SIMETRY or its employees except in the results to be obtained.

21. Statutory Employer. In all cases where SIMETRY's employees (defined to include SIMETRY's or its subcontractor's direct, borrowed, special, or statutory employees) are covered by the Louisiana Workers' Compensation Act, La. R.S. 23:1021 et seq., Customer and SIMETRY agree that all work and operations performed by SIMETRY and its employees pursuant to this Agreement are an integral part of and are essential to the ability of Customer to generate Customer's goods, products and services for purposes of La. R.S. 23:1061(A)(1). Furthermore, Customer and SIMETRY agree that Customer is the statutory employer or special employer (as defined in La. R.S. 23:1031(C)) of SIMETRY's employees, but SIMETRY shall remain primarily responsible for the payment of Louisiana Workers' Compensation benefits to its employees, and shall not be entitled to seek contribution for any such payments from Customer or its insurers. SIMETRY agrees that its worker's compensation insurance and employer's liability insurance policies shall be endorsed to designate Customer as an alternative employer and as a principal and statutory employer or borrowing employer and shall be further endorsed to waive unconditionally those underwriter's or insurer's rights of subrogation against Customer.

22. Severability. If any provision hereof is invalid under such applicable law for any reason, it will be adjusted to the extent necessary in order to validly achieve as nearly as possible the intent of the parties reflected in such invalid provision. In any event, all other provisions hereof will remain binding, valid, and enforceable.

23. Governing Law. Unless otherwise specified in the proposal, work order, contract, notes to pricing or invoice referencing this Agreement or to which this Agreement is attached, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding conflicts of law and choice of law principles, and venue for any disputes shall lie in Houston, Harris County, Texas.

24. Entire Agreement. This Agreement and any attachments hereto constitutes the entire agreement of the parties with respect to the subject matter of this Agreement, supersedes all prior agreements between them, whether oral or written, of any nature whatsoever with respect to the subject matter hereof, and may not be amended except in writing by an authorized representative of Customer and SIMETRY. This Agreement is binding upon the parties hereto and their respective successors and permitted assigns, and each of the parties' affiliates are entitled to adopt this Agreement and utilize its terms with respect to Transactions between Customer or its affiliate, on the one hand, and SIMETRY or its affiliate, on the other hand. The covenants and understandings contained in this Agreement with respect to payment of amounts due, confidentiality, liability and indemnification shall survive any termination of this Agreement.