

**NIMBELINK CORP.
ASSET TRACKER SERVICE
TERMS AND CONDITIONS**

1. Applicability. These Terms and Conditions (the “Terms”) apply to and govern all offers to use the NimbeLink asset tracking service (“Service”), associated cellular data plan services (“Data Plan”) and tracking devices (“Asset Tracker”) that are offered for sale or license by NimbeLink Corp. (“NimbeLink”) to customers identified in quotations (“Customers”), except to the extent these Terms have been modified or superseded explicitly under another agreement signed in writing by an officer of NimbeLink. NimbeLink and Customer are each a “Party” and are referred to collectively as the “Parties” in these Terms.
2. Asset Tracking Service. The Service connects Asset Trackers to a NimbeLink enablement platform (“NLink”) through a cellular data connection allowing the Asset Trackers to communicate raw data through NLink. NLink extracts, augments, formulates, and formats data collected by the Asset Trackers. NLink transmits location, temperature, battery, and accelerometer data (“NLink Push Data”) to a cloud-based software interface accessible by Customer. The Service includes updates to firmware and software as determined to be useful or necessary by NimbeLink. Additional support and/or customer modifications to aspects of the Service or its individual components may be available under a separate Agreement. NimbeLink may modify or adjust requested device settings as necessary or desirable. Use of the Service requires a Data Plan approved for use with the Asset Trackers and the Service. Following the initial 3-month deployment period, and unless otherwise agreed, NimbeLink will provide the Data Plan described below and Customer agrees to pay NimbeLink the applicable charges for the Data Plan. If requested, Customer will provide NimbeLink with a single point of contact for support.
3. Deployment Kit Dashboard. The Service includes a cloud-based user interface for setting Asset Tracker configuration and viewing device data (“Deployment Kit Dashboard”). In addition, NimbeLink may offer Customer additional integration services to Customer managed server end-points. Upon written Agreement, NimbeLink and Customer may agree to remove the Deployment Kit Dashboard from the Service, and send the NLink Push Data to a Customer managed server end-point.
4. License Grants. NimbeLink grants Customer a non-exclusive, non-sublicensable, non-transferable license to use the Asset Tracker firmware associated with the collection of data by the Asset Tracker solely as part of the Service. NimbeLink grants Customer an irrevocable, perpetual, non-exclusive license to reproduce, publish, modify and otherwise use the NLink Push Data extracted by Customer during the term of the Service in connection with Customer’s business. NimbeLink grants Customer a non-sublicensable, non-transferable, non-exclusive limited right to access NLink as part of the Service. In the event NimbeLink receives Customer information (e.g. email addresses, phone numbers, equipment configurations) in the performance of the Service, Customer grants NimbeLink a non-exclusive license to reproduce and use Customer information in connection with provision of the Service to Customer. During the period of time Customer has the right to access the Service, NimbeLink grants Customer a non-sublicensable, non-transferable, non-exclusive limited right to access the Deployment Kit Dashboard and to extract NLink Push Data from the Service.
5. Customer Data Plans. Provided Customer’s own cellular data plan has been approved for use with the Asset Trackers, and certain Asset Tracker volume thresholds have been met, Customer may contract with NimbeLink for integration services to enable the Asset Trackers to operate with Customer’s own cellular data plan on a going forward basis.
6. Credentials. NimbeLink will issue usernames and passwords to Customer for Customer’s use in accessing the Service. Customer represents that all email addresses and registration information provided to NimbeLink are accurate. It is Customer’s sole responsibility to provide NimbeLink written notice of any changes to user information and/or email addresses. Customer will ensure that each username and password issued to a Customer will be used only by an authorized user of Customer. Customer is responsible for maintaining the confidentiality of all usernames and passwords. Customer is solely responsible for all activities that occur under these credentials. Customer agrees: (a) to only allow authorized users to use its account, usernames or passwords; (b) to promptly notify NimbeLink if it becomes aware, or should be aware, of any actual or suspected unauthorized use of its

account, usernames or passwords, or any other breach or suspected breach of security related to the Service and take such action to mitigate the breach, suspected breach, or unauthorized use or disclosure of information within or obtained from the Service as NimbeLink may direct, and will cooperate with NimbeLink in investigating and mitigating the same; and (c) to promptly fix any bugs in Customer's software that causes the Service to be accessed incorrectly; for example, software that generates incorrect API calls to the Service, and software that uses incorrect authentication tokens to access the Service. NimbeLink reserves the right to block, without liability, any Customer data and Customer account that violates the terms of this Section.

7. Deployment Kits, Additional Asset Trackers and Orders. The Deployment Kit includes three months of Data Plan services, three Asset Trackers, and up to three hours of technical assistance for system integration planning (e.g. data mapping). Customers order the Asset Tracking Service by placing an order for a Deployment Kit at the NimbeLink order website. Additional Asset Trackers may be ordered by issuing purchase orders in conformity with quotations issued by NimbeLink. (Both means of ordering are "Orders"). Orders will be binding upon NimbeLink only if expressly accepted in writing by NimbeLink. The agreement between the Parties for any Order (the "Agreement") consists of: (i) these Terms; (ii) the prices, quantities, payment and delivery terms consistent with a NimbeLink quote set forth in or incorporated in the Order; and (iii) any modifications or additions to these Terms accepted in writing by an officer of NimbeLink. No provision of any Customer purchase order will be binding upon NimbeLink unless expressly accepted by NimbeLink in writing by an officer of NimbeLink.
8. Additional Technical Support. NimbeLink will provide technical support (beyond that included with the Deployment Kit) at its normal hourly rates, or as otherwise specified in a proposal or quotation (e.g. creation of a connector to the Customer's platform).
9. Private Labeling of Service. The Service and the Asset Tracker may be private labeled for Customer as specified in a proposal or quotation.
10. Term and Termination. The Service will begin upon acceptance of an Order by NimbeLink. Either party may terminate this agreement upon 30 days written notice to the other. NimbeLink may terminate this Agreement upon 10 days written notice to Customer if NimbeLink is unable to charge the credit card on file for the Service or Customer fails to pay an invoice on time and payment is not made within said 10-day grace period. Upon termination Customer shall cease using the Service and all components of the Service, the Data Plan (if obtained through NimbeLink) and NimbeLink's confidential information. Upon termination of this Agreement for any reason Customer shall pay NimbeLink for the Service provided through the date of termination, equitably prorating the charges for any period of time in which the termination date occurs. NimbeLink shall not be obligated to provide the Service, Deployment Kit Dashboard, Data Plan, or perform any support services following termination. Upon termination, NimbeLink may disable Customer's user credentials and the communication between the Asset Trackers in Customer's possession and NLink. Pending Orders, if any, will be cancelled as of the termination date.
11. Data Plans.
 - a. **Included Service.** The Deployment Kit includes 3 months of Data Plan services through Verizon or other NimbeLink approved carriers.
 - b. **Permitted Use.** Customer may use the Data Plan solely in connection with the Service and within Verizon's (or another permitted carrier's) service area ("Permitted Use"); Asset Trackers may use the roaming services of the carrier's roaming partners but may not be permanently located in roaming areas. Customer may not use the Service or the Data Service for remote medical patient monitoring applications. Customer may allow its customers of an M2M solution, if any, ("End Users") to make use of the Data Plan but only in connection with the Permitted Use and Customer shall be fully responsible for the use of the Data Plan, the NLink Push Data and the Service by End Users as fully as if such use were made by Customer directly.

- c. **Service Level and Dependencies.** NimbeLink shall provide the Data Plan using diligent, commercially reasonable efforts, to provide support services for the Data Plan in connection with the Service. NimbeLink is authorized to provide the Data Plan by NimbeLink approved carriers, but NimbeLink is dependent upon the carrier continuing to provide and support its network and that authorization. Customer acknowledges that Data Plan is subject to interruption due to interruption of the carrier's network and is available only within the applicable carrier plan coverage areas, within operating range of wireless systems and with equipment authorized by the carrier to operate on its network.
 - d. **Returns/Refunds.** Data Plan services cannot be returned. There are no refunds on used, unused or partially consumed data plans. Data Plan services may be terminated on 30 days written notice to NimbeLink.
 - e. **Disclaimer of Data Plan Warranties.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NIMBELINK HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE DATA PLAN WHETHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
12. **Shipping and Insurance.** The Asset Trackers will be shipped from NimbeLink or its contractor's facility to a Customer designated location in the United States of America using a tracked shipment means and carrier selected by NimbeLink. Customer receives title to the Asset Trackers and will bear the risk of loss to the Asset Trackers upon delivery of the Asset Trackers by NimbeLink or its contractor to the selected shipper ("Delivery"). The costs of shipping and insurance for the Deployment Kit are included in the Deployment Kit pricing. The costs of shipping and insurance for additional Orders of Asset Trackers following Delivery are additional to quoted prices and are separately payable by Customer or will be reimbursed to NimbeLink if paid by it.
13. **Inspection and Acceptance.** Customer shall be deemed to have accepted the Service, Data Plan and Asset Trackers upon Delivery of the Asset Trackers unless it notifies NimbeLink in writing within ten (10) days following Customer receipt of the Asset Trackers at the destination specified in the Order that Customer has identified a defect in the condition, product identification, quantity delivered or functioning of the Asset Tracker against the then-current version of published NimbeLink Asset Tracker specifications (the "Specifications"). Any use of the Asset Trackers in advance of any such notice constitutes acceptance. Unless otherwise stated in the Agreement, NimbeLink may fill Orders through partial shipments. Customer shall inspect the condition of packaging upon receipt and claim directly from the shipper for any identified damage.
14. **Payment.** Unless otherwise agreed in writing, all charges for the Service, the Data Plan and the Asset Trackers will be made by credit card prior to shipment or deployment. Customer hereby agrees that NimbeLink may charge the credit card on file for the applicable month's charges at the time an Order is accepted by NimbeLink and monthly thereafter. In the event NimbeLink issues an invoice to Customer for the Service, the Data Plan, Asset Trackers, or any portion thereof, payment shall be due thirty (30) days after the invoice date. Late payment charges equal to one percent (1%) of any amounts not paid when due shall accrue and be payable by Customer for each calendar month in which those amounts remain unpaid, subject to any limits on such charges at law. NimbeLink retains a purchase money security interest in all Products purchased under an Order until the purchase price and associated charges are paid in full. All amounts due are payable in United States Dollars. In the event of Customer's failure to pay invoices when due, NimbeLink shall have the rights of a secured Party, in addition to other remedies available to it. Customer shall reimburse NimbeLink for all costs and fees incurred by NimbeLink in collection of past due amounts.
15. **Warranty and Returns**
- A. **Limited Warranty.** NimbeLink has no control over the quality or availability of cellular coverage or Customer's internet connection or coverage. The Service may be subject to outages, interruptions, attacks by third parties and delay occurrences. Subject to the terms of this Agreement, NimbeLink warrants to Customer only, and not to customers of Customer or others, that the Asset Trackers will conform to the NimbeLink Specifications in all material respects and be free of defects in materials or workmanship for a period of one (1) year from acceptance of an Order by NimbeLink. NimbeLink does not warrant that the

Service, NLink, the Asset Trackers or the Deployment Kit Dashboard will be error-free or that they will perform to NimbeLink Specifications if used with products and services that are not part of the Service. NimbeLink shall not have any warranty obligation for Asset Trackers: (i) identified on the NimbeLink quote as “pilot” “trial use”, “beta” or similar designation, (ii) not fully tested by NimbeLink at the written direction of Customer, (iii) damaged following Delivery (in shipping or otherwise), (iv) altered by Customer or others in any manner, (v) used in any manner inconsistent with this Agreement or the NimbeLink specifications, or (vi) caused to fail by a product or service not provided by NimbeLink. NimbeLink is not liable for any loss or damage arising from unauthorized use of any accounts, usernames or passwords. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES SET FORTH ABOVE ARE THE ONLY WARRANTIES MADE BY NIMBELINK WITH RESPECT TO THE SERVICE AND THE ASSET TRACKERS; ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED ARE HEREBY EXCLUDED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

B. Return Procedures. If Customer believes the Service or the Asset Trackers are subject to a warranty claim, Customer shall contact NimbeLink through its web-site or other published support procedures and provide the information and follow the commercially reasonable tests identified by NimbeLink to confirm whether a defect exists. If the problem persists, NimbeLink shall issue a Return Material Authorization (“RMA”) and Customer shall return the affected Asset Tracker by prepaid shipping at its cost to NimbeLink according to the instructions in the RMA. Promptly upon receipt, NimbeLink will perform factory acceptance tests and similar methods to replicate or confirm the presence of the reported defect. If defects in the Asset Trackers are confirmed, NimbeLink shall, in a prompt, commercially reasonable time, at its option either: (i) repair the Asset Tracker, (ii) replace the Asset Tracker with a functionally equivalent Asset Tracker, or (iii) if repair or replacement is not commercially feasible as reasonably determined by NimbeLink, refund to Customer the purchase price of the Asset Tracker. NimbeLink may request that Customer return an Asset Tracker to NimbeLink for repair or replacement. Customer agrees to cooperate with NimbeLink and follow the directions in the notice. Repaired or replacement Asset Trackers may be reconditioned or new and will be covered by the remaining term of the original warranty term for the defective Asset Tracker. Risk of loss to Asset Trackers returned by Customer will remain with Customer except when in the possession of NimbeLink. Title to all replaced or refunded Asset Trackers will vest in NimbeLink upon Delivery of the replacement or payment of the refund. If no defects are identified, NimbeLink shall notify Customer of that circumstance in writing. Asset Trackers returned to NimbeLink without a valid RMA will be shipped back to Customer unopened at Customer’s cost. NimbeLink will return all repaired, replacement, or non-defective Asset Trackers by prepaid shipping at its cost to Customer according to original shipping instructions, or agreed updated instructions and will bill those charges to Customer for unauthorized returns only. The remedies set forth in this Section are the exclusive remedies available to Customer for any claims related to the condition, use or functioning of the Service and the Asset Trackers.

16. Limitations of Damages and Remedies. THE LIABILITY OF NIMBELINK FOR ANY CLAIMS, WHETHER BASED IN CONTRACT, WARRANTY, TORT OR OTHERWISE, ARISING FROM OR RELATING TO THIS AGREEMENT, THE SERVICE, THE DATA PLAN, NLINK, CUSTOMER’S USE OF DATA, THE DEPLOYMENT KIT DASHBOARD OR THE ASSET TRACKERS ARE LIMITED TO DIRECT DAMAGES INCURRED BY CUSTOMER, NOT EXCEEDING THE AMOUNT PAID FOR THE SERVICE OR AFFECTED ASSET TRACKER(S) DURING THE PRECEDING 12 MONTHS. IN NO EVENT WILL NIMBELINK BE LIABLE FOR DAMAGES ARISING FROM CUSTOMER’S FAILURE TO REPLACE ASSET TRACKERS AS DIRECTED OR NEEDED, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE PRICES OF THE SERVICE, ASSET TRACKERS AND DATA PLANS ARE SET AS A CONSIDERATION FOR THESE LIMITS. IN NO EVENT WILL NIMBELINK BE LIABLE FOR ANY DAMAGES, DIRECT OR OTHERWISE, ARISING FROM A CLAIM (I) THAT EQUIPMENT, PRODUCTS, OR OTHER ITEMS HAVE BEEN LOST OR MISPLACED WHILE USING THE AN ASSET TRACKER OR THE SERVICE; (II) BASED UPON USE OF ASSET TRACKERS IDENTIFIED ON THE NIMBELINK QUOTE AS “PILOT”, TRIAL USE”, “BETA” OR SIMILAR DESIGNATION; (III) THAT AN ASSET TRACKER OR AN ASPECT OF THE SERVICE WAS NOT FULLY TESTED IF THE FAILURE TO TEST WAS AT THE WRITTEN DIRECTION OF CUSTOMER; (IV) THAT AN ASSET TRACKER WAS DAMAGED FOLLOWING DELIVERY; (V) ARISING FROM THE ALTERATION OF AN ASSET TRACKER, NLINK, OR THE DEPLOYMENT KIT DASHBOARD BY CUSTOMER OR A THIRD PARTY; (VI) BASED UPON USE OF THE SERVICE OR ITS COMPONENTS OUTSIDE OF

THE LICENSES GRANTED IN THIS AGREEMENT OR IN A MANNER INCONSISTENT WITH THE NIMBELINK SPECIFICATIONS; (VII) ARISING FROM THE FAILURE OF AN ASSET TRACKER OR THE SERVICE IN CONNECTION WITH A PRODUCT OR SERVICE NOT PROVIDED BY NIMBELINK; OR (VIII) BASED UPON CUSTOMER'S FAILURE TO PROTECT ACCOUNTS, USER NAMES AND PASSWORDS FROM UNAUTHORIZED USE.

NIMBELINK SHALL HAVE NO LIABILITY OF ANY TYPE, WHETHER EXPRESS OR IMPLIED, ARISING FROM OR RELATING TO THE USE OF THE SERVICE, DATA, NLINK OR THE ASSET TRACKERS IN APPLICATIONS WHERE FAILURE OF THE SERVICE OR AN ASSET TRACKER COULD RESULT IN LOSS OF LIFE, SERIOUS PERSONAL INJURY, OR SIGNIFICANT PHYSICAL OR ENVIRONMENTAL DAMAGE INCLUDING, BUT NOT LIMITED TO MEDICAL DEVICES, LIFE SAFETY APPLICATIONS, CONTROLS IN NUCLEAR FACILITIES, AND AIR TRAFFIC CONTROL APPLICATIONS. THE PRODUCTS ARE NOT INTENDED FOR USE IN SUCH APPLICATIONS.

17. EXCLUSION OF LIABILITY OF DATA PLAN CARRIERS (E.G. VERIZON WIRELESS). CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN NIMBELINK AND THE UNDERLYING CARRIER, IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR.
18. Export and Compliance. Customer acknowledges that the Asset Trackers are subject to U.S. export and re-export control regulations and may be subject import regulations of other countries and agrees to fully comply with all such regulations applicable to its use of the Products. Each Party confirms and agrees to maintain compliance with all laws and regulations applicable to it in any way related to the Products or the Agreement, including, without limitation, labor laws and regulations and anti-bribery laws such as the U.S. Foreign Corrupt Practices Act.
19. Performance. Each Party agrees to perform its obligations under the Agreement using diligent commercially reasonable efforts, but the performance of each Party will be excused only for the duration of any condition or event outside of its reasonable control making performance commercially impractical such as disruptions due to natural disasters, acts of war, riots, strikes or supply chain shortages or delays.
20. Intellectual Property and Confidentiality of NimbeLink Information. Except as expressly provided in this Agreement, NimbeLink does not grant any license or other right to use any patent, copyright, trademark or other proprietary right ("IP") of NimbeLink or its suppliers. All rights associated with the IP are expressly reserved by NimbeLink. The Service, NLink, Asset Trackers, and the Deployment Kit Dashboard contain confidential information belonging to NimbeLink, including but not limited to the firmware on the Asset Trackers. Customer shall not reproduce, modify, decompile or otherwise attempt to reverse engineer any software used in the Service or the firmware contained in the Asset Trackers. Customer shall not remove or alter any trademark, copyright notice or other designation of IP interest contained in or on the documentation or other material supplied by NimbeLink to Customer.
21. Customer Suggestions. Customer hereby grants NimbeLink an irrevocable, sublicensable, non-exclusive, royalty-free right and license to reproduce, adapt, modify, translate, distribute, and otherwise use any ideas, feedback, comments, suggestions or other communications, whether or not patentable or copyrightable, provided by Customer regarding the Service, NLink, the Deployment Kit Dashboard, and the Asset Trackers.
22. Indemnities. Customer hereby indemnifies and agrees to hold NimbeLink, its shareholders, employees, officers, directors, agents, affiliates and suppliers harmless from any claims and resulting costs, expenses, loss of damage related to (i) the use of the Service, the Asset Trackers or the Data Plan in any manner inconsistent with this Agreement or an Order; (ii) Customer's use of

the NLink Push Data to provide information or services to End Users of Customer; (iii) or resulting from any failure of Customer or Customer's End Users to comply with applicable laws, regulations or industry standards applicable to their use of the Service, the Asset Trackers or the Data Plan. Further, the performance of each Party under this Agreement will be excused only for the duration of any condition or event outside of its reasonable control making performance commercially impractical such as disruptions due to natural disasters, acts of war, riots, strikes, disruptions in cellular service or supply chain shortages or delays.

23. Compliance. Each Party confirms and agrees to maintain compliance with all laws and regulations applicable to it in any way related to the Service. Customer agrees to supply to NimbeLink such information regarding the usage of the Data Plan by Customer and any End Users as may legally be required by a communications carrier of NimbeLink.
24. Authorized Disclosures. NimbeLink disclosures to communications carriers (e.g. Verizon) and government authorities of information related to use of the Data Plan or Service by Customer and Customer's end users, as legally required of NimbeLink, is authorized by Customer.
25. Resolution of Disputes; Controlling Law. Any assertion that a Party has failed to perform its obligations under this Agreement, or asserts any other claim arising from or relating to the Service, the Asset Trackers or the Data Plan (a "Claim") shall be governed by the laws of the State of Minnesota without reference to choice of law or conflict of law principles. The Parties each consent to personal jurisdiction within the State and Federal courts for Hennepin County, Minnesota as the exclusive jurisdiction in which to bring any Claims. Any Claim in any form based on any cause of action or legal theory must be brought within one (1) year after the date the cause of action underlying that Claim first accrued.
26. Electronic Interchange; Notice. Each Party agrees that notices provided to the other related to the Agreement will be valid if sent by email to authorized addresses (notwithstanding any failure of the recipient's email system, spam filters or similar impediments) or by courier service or regular U.S. mail to an authorized address, the parties main office or through subsequent notice to the other Party. Emails constitute writings and electronic facsimiles of original signatures constitute written approval for purposes of the Agreement.
27. General. The Agreement constitutes the entire agreement between the Parties hereto with respect to the Service, the Asset Trackers and Data Plans provided through NimbeLink for the Asset Tracker Service and supersedes any and all prior agreements, discussions, negotiations, arrangements, or understandings, whether written, oral or implied, with respect to the subject matter of the Agreement. Terms which by their natural interpretation extend beyond the term of this Agreement will be deemed to survive the termination of this Agreement (e.g. perpetual license grants). This Agreement may not be modified or amended without the prior written consent of each Party for accepted Orders as evidenced by a mutually signed written amendment hereto. NimbeLink may alter these Terms at any time and such alterations will apply to any Orders accepted after the date of that modification. Should any one or more parts of this Agreement be declared invalid through arbitration or by any court of competent jurisdiction for any reason, such decisions shall not affect the validity of any remaining portions, which shall remain in full force and effect as if this Agreement had been executed with the invalid parts thereof eliminated. The relationship between the Parties under this Agreement is that of independent contractors. This Agreement does not grant authority for either Party to act for the other in any agency or any other capacity nor to make commitments of any kind for the account of or on behalf of the other Party. The employees or agents of one Party shall not be deemed to be employees or agents of the other Party for any purpose. Except in connection with a change of control event such as a merger or the sale of substantially all the business assets of a Party, neither Party may assign or transfer any rights or obligations under this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of each Party and their respective successors and permitted assigns. Failure to insist upon strict compliance of any of the terms of the Agreement shall not be deemed a waiver of such term.