

## **TERMS AND CONDITIONS FOR PURCHASE OF GOODS AND SERVICES**

**1. Applicability; Entire Agreement.** These terms and conditions of purchase (these “**Terms**”) are the only terms which govern the purchase of goods (“**Goods**”) and services (“**Services**”) by Gelest, Inc., a Pennsylvania corporation (“**Buyer**”), from the seller (“**Seller**”) identified on the purchase order, work order, or other document to which these Terms are attached or which incorporate these Terms by reference (the “**Purchase Order**”). The Purchase Order and these Terms (collectively, this “**Agreement**”) constitute the complete and exclusive statement of the terms of the contract with respect to the purchase by Buyer of Goods and Services from Seller and the final expression of the terms of such contract, and shall supersede all prior and contemporaneous agreements, inducements, conditions, understandings, negotiations, and communications, whether express or implied, oral or written. No course of prior dealings between the parties, usage of trade, or course of performance shall be relevant to supplement or explain any term in this Agreement. Seller’s acceptance of the Purchase Order is limited to these Terms. Any terms and conditions proposed by Seller in any document that are different from, conflict with, or add to these Terms shall be deemed to materially alter the Agreement and are objected to and rejected by Buyer. Notwithstanding anything in this Agreement to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services, the terms and conditions of the written contract will prevail to the extent they are inconsistent with these Terms. Fulfillment of this Purchase Order by Seller constitutes acceptance of these Terms.

### **2. Delivery of Goods and Performance of Services.**

a. Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the “**Delivery Date**”). Seller shall deliver all Goods to the address specified in the Purchase Order (the “**Delivery Point**”) during Buyer’s normal business hours or as otherwise instructed by Buyer. Seller shall pack all Goods for shipment according to Buyer’s instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition.

b. If a tender of conforming Goods is not made by the scheduled Delivery Date, Seller shall have no right to make a later conforming tender. Seller shall promptly notify Buyer in writing of any anticipated delay in delivery, and Buyer may, in order to maintain the scheduled Delivery Date, require Seller to expedite delivery by performing on an accelerated, premium time basis or shipping via a speedier, alternate transport means, and the costs attributable to such accelerated performance or expedited delivery shall be paid by Seller. Seller shall be liable for all resulting damages to Buyer and any customers of Buyer resulting from Seller’s delay in delivery. Delivery shall not be deemed to be complete until the Goods have been actually received and accepted by Buyer in accordance with Section 6. Returns and requests by Buyer for credit will not be unreasonably withheld or delayed by Seller. Advance shipments may at Buyer’s option be rejected and returned to Seller at Seller’s expense.

c. Seller shall provide the Services to Buyer as described in, and in accordance with the schedule set forth in, the Purchase Order and in accordance with these Terms.

d. Seller acknowledges that time is of the essence with respect to Seller’s obligations under this Agreement and the timely delivery of the Goods and provision of the Services, including all performance dates, timetables, project milestones, and other requirements in this Agreement.

**3. Quantity.** Seller shall provide written notice if it intends to ship more or less Goods than the amount ordered, and Buyer may accept or reject any such changes with no penalty. If Seller delivers more than the quantity of Goods ordered, Buyer may reject all or any excess Goods, in which event Buyer shall return any such rejected Goods to Seller at Seller’s sole risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of Goods at the increased or reduced quantity, the Price (defined below) for the Goods shall be adjusted on a pro-rata basis.

**4. Shipping Terms.** Seller shall deliver the Goods DDP Delivery Point (Incoterms 2020) unless otherwise specified in the Purchase Order. The Purchase Order number shall appear on all shipping

documents, shipping labels, bills of lading, air waybills, invoices, correspondence, and any other documents pertaining to the Purchase Order.

**5. Title and Risk of Loss.** Title and risk of loss will pass to Buyer upon delivery of the Goods at the Delivery Point and acceptance of the Goods by Buyer.

**6. Inspection.** Buyer may inspect Goods delivered prior to acceptance even if full or partial payment for the Goods has been made prior to delivery, the Goods have been inspected at Seller's place of business, or the condition of the Goods has been otherwise certified to Buyer. Buyer's inspection may include any measurement, testing, or examination that leaves possible the return of the Goods to Seller in substantially the same condition in which they were delivered to Buyer. Buyer may reject or revoke its acceptance of any Goods that do not strictly conform to Seller's obligations under the Purchase Order. If Buyer rejects any portion of the Goods, Buyer shall be entitled to exercise all or any of the remedies set forth in Section 12. Buyer's inspection, discovery of any breach of warranty, failure to make an inspection, or failure to discover any breach of warranty shall not constitute a waiver of any of Buyer's rights or remedies.

**7. Price.** The price of the Goods and Services is the price stated in the Purchase Order or, if no price is included in the Purchase Order, the price set out in Seller's published price list in force as of the date of the Purchase Order (the "**Price**"). Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, insurance, customs duties, fees, and applicable taxes, including, without limitation, all sales, use, or excise taxes. No increase in the Price will be effective, whether due to increased material, labor, or transportation costs or otherwise, without the prior written consent of Buyer.

**8. Invoices.** Seller shall issue an invoice to Buyer on or any time after delivery of the Goods and only in accordance with this Agreement. Buyer shall pay all properly invoiced amounts due to Seller within thirty (30) days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. All invoices and payments shall be in U.S. dollars. Without prejudice to any other right or remedy it may have, Buyer may set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller, whether under this Agreement or otherwise. Discount privileges will apply from the date of acceptance of the Goods by Buyer or the date of receipt of the invoice, whichever date is later.

**9. Seller's Obligations Regarding Services.**

a. Seller shall maintain complete and accurate records relating to the provision of the Services, including, without limitation, records of the time spent and materials used by Seller in providing the Services, in a form acceptable to Buyer. Upon Buyer's request, Seller shall allow Buyer to inspect and make copies of such records and interview Seller personnel in connection with the provision of the Services.

b. Seller shall obtain Buyer's written consent prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to Buyer (each such approved subcontractor or other third party, a "**Permitted Subcontractor**"). Buyer's approval shall not relieve Seller of its obligations under this Agreement, and Seller shall remain fully responsible for the performance of each Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Seller's own employees. Nothing contained in this Agreement shall create any contractual relationship between Buyer and any Permitted Subcontractor or Seller supplier. Seller shall require each Permitted Subcontractor to be bound in writing by confidentiality obligations at least as restrictive as those set forth in Section 19 of this Agreement. Seller shall ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services.

c. Seller shall ensure that all equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal

standards and standards specified by Buyer. Seller shall keep and maintain any Buyer equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with Buyer's written instructions or authorization.

**10. Changes.** Seller shall not make any changes to the Purchase Order without written authorization of Buyer. Buyer may at any time by written notice (each such notice a "**Change Order**") make changes within the general scope of the Purchase Order to the specifications, designs, packaging, methods of shipment, quantities, place of delivery, or delivery schedules of the Goods or Services. If any such change causes an increase or decrease in the costs of or the time required for Seller's performance, Seller shall, within five (5) days after receipt of the Change Order, submit to Buyer a written proposal for adjustment to the Price or delivery schedule, or both. Buyer and Seller shall in good faith negotiate a mutually agreeable adjustment to the Purchase Order. Nothing contained in the Purchase Order or Change Order shall relieve Seller from proceeding without delay to perform the Purchase Order, as changed.

**11. Warranties.**

a. Seller warrants that all Goods delivered to Buyer will: (i) strictly conform in all respects with Buyer's descriptions and specifications; (ii) strictly conform in all respects to any samples, drawings, descriptions, specifications, or other written documents presented to Buyer in connection with the sale of such Goods to Buyer; (iii) be merchantable, of new and best material, and fit for the purpose for which such Goods are intended; (iv) be free from all defects, including latent defects, in workmanship, material, and design; (v) be free and clear of all liens, security interests, or other encumbrances; (vi) not infringe or misappropriate any U.S. or foreign patent, trademark, copyright, trade secret, or other intellectual property right of a third party; and (vii) all consumable or non-durable Goods will have a shelf life of at least six (6) months after the date of delivery and acceptance by Buyer. In addition to the foregoing express warranties, the Goods purchased shall be subject to all warranties arising by operation of law or otherwise.

b. Seller warrants to Buyer that: (i) it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement; (ii) Buyer will receive good and valid title to all documents, work product, and other materials that are delivered to Buyer under this Agreement or prepared by or on behalf of Seller in the course of performing the Services (collectively, the "**Deliverables**"), free and clear of all encumbrances and liens of any kind; (iii) none of the Services, Deliverables, and Buyer's use of the foregoing infringe or will infringe any registered or issued patent, copyright, trademark, or other intellectual property right of any third party; and (iv) as of the date of the Purchase Order, there are no pending or, to Seller's knowledge, threatened claims, litigation or other proceedings pending against Seller by any third party based on an alleged violation of any intellectual property right of a third party.

c. All warranties provided by Seller under this Agreement shall survive inspection, delivery, acceptance, and payment and shall run to Buyer, its officers, agents, employees, successors, assigns, customers, and users of the Goods.

d. The warranties set forth in this Section 11 are cumulative, non-exclusive, and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly: (i) replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming Goods to Seller and the delivery of repaired or replacement Goods to Buyer; and, if applicable, (ii) repair or re-perform the applicable Services.

**12. Remedies.** If Seller breaches any of its representations or warranties under this Agreement, Buyer may exercise any or all of the following remedies, in any combination, in Buyer's sole discretion: (a) all remedies for a breach of contract set forth in the Pennsylvania Uniform Commercial Code, 13 Pa. C.S.

§§ 1101 *et seq.*; (b) refuse to accept delivery of the Goods; (c) refuse to accept a substantial tender of substitute, conforming Goods; (d) return nonconforming Goods to Seller at Seller's expense for a full credit and, at Buyer's option, obtain replacement Goods on an expedited basis; (e) return late-delivered Goods to Seller at Seller's expense for a full credit; (f) recover any advance payments from Seller for undelivered Goods; (g) rework the Goods to make the Goods conform to the warranties and charge Seller for all expenses related to the rework; (h) have Seller repair or replace defective Goods at Seller's expense and on an expedited basis; or (i) if defective Goods are repaired or replaced by Buyer or Seller, charge Seller for all costs and expenses of repairing or restoring non-defective work or Goods disturbed as a consequence of repairing or replacing defective Goods.

**13. Compliance With Laws.** Seller warrants that the Goods have been and will be manufactured and sold in strict compliance with all applicable foreign, federal, state, and local laws, rules, regulations, and orders. Seller shall comply with all applicable foreign, federal, state, and local laws, regulations, and orders in performing its obligations under this Agreement. Seller shall maintain in effect all licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Seller shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Seller. Seller assumes all responsibility for shipments of Goods requiring any government import clearance.

**14. Termination.** Buyer may terminate this Agreement, any Purchase Order, or any portion of a Purchase Order immediately upon written notice to Seller, upon the occurrence of any of the following events: (a) Seller fails to perform any of its obligations under this Agreement or breaches a representation or warranty under this Agreement; (b) Buyer reasonably determines that Seller's ability to perform this Agreement is in danger or impaired; or (c) Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors. In the event of termination by Buyer under this Section 14, Buyer shall have the rights and remedies set forth in Section 12, and Buyer's sole liability to Seller shall be payment for conforming Goods and Services completed and delivered to Buyer in accordance with the Purchase Order prior to termination. Buyer may demand of Seller adequate assurance of due performance, and Buyer shall be sole judge of the adequacy of assurance given by Seller.

**15. Indemnification.** Seller assumes the entire responsibility and liability for and agrees to indemnify, defend, and hold harmless Buyer, its affiliates, and their respective shareholders, directors, officers, agents, employees, successors, assigns, customers, and users of the Goods and Services (collectively, "**Indemnitees**") from and against any and all losses, expenses (including without limitation, attorneys' and other professionals' fees), costs, damages (including special, consequential, and incidental damages), demands, liabilities, suits, and claims in connection with or arising out of any actual or alleged personal injury (including death), or damage or destruction to property (including loss of use), or any other damage (collectively, "**Losses**") arising out of or occurring in connection with: (a) any act, error, or omission, whether negligent or not, of Seller or its agents, employees, suppliers, subcontractors, or consultants; (b) any defect, whether latent or patent, in any Goods; (c) any failure of the Goods or Services to comply with any warranty of Seller or applicable law; (d) any breach of this Agreement by Seller; or (e) any claim that any Indemnitee's use or possession of the Goods or the provision or use of the Services infringes or misappropriates the patent, trademark, copyright, trade secret, or other intellectual property right of any third party. Seller shall not enter into any settlement without Buyer's prior written consent.

**16. Intellectual Property.**

a. Buyer shall exclusively own all intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated with the foregoing, derivative works and all other rights (collectively, "**Intellectual Property Rights**") in and to all Deliverables. Seller acknowledges that the Deliverables are, to the fullest extent permitted by law, "work made for hire" as defined in 17 U.S.C. §101. To the extent that any of the Deliverables do not constitute a "work made for hire," Seller irrevocably assigns, and shall cause its employees and contractors to irrevocably assign, to Buyer all

right, title, and interest in and to the Deliverables, including all Intellectual Property Rights. Upon Buyer's request, Seller shall, and shall cause its employees and contractors to, promptly take such further actions, including execution and delivery of all appropriate instruments of conveyance, as may be necessary to assist Buyer to prosecute, register, perfect or record its rights in or to any Deliverables.

b. Without limiting any of Buyer's other rights or remedies, if the Goods or any part of the Goods become the subject of a United States patent, trademark, copyright, or other intellectual property right infringement suit or proceeding, Seller promptly and at its own expense shall, at Buyer's election: (a) procure for Buyer the right to continue use of the Goods; (b) replace the Goods with noninfringing goods satisfactory to Buyer; or (c) modify such Goods in a way satisfactory to Buyer and its counsel so they become noninfringing.

**17. Limitation of Liability. Buyer shall not be liable for any special, exemplary, indirect, incidental, punitive, or consequential damages, including, without limitation, lost profits, loss of use, loss of income, arising out of this Agreement, however caused and under any theory of liability, whether based in contract, tort, or otherwise. Notwithstanding anything contained in this Agreement to the contrary, Buyer's liability to Seller for actual direct damages arising out of this Agreement shall not exceed the total amount paid by Buyer to Seller in the twelve-month period immediately preceding the event giving rise to the liability.**

**18. Insurance.**

a. During the term of this Agreement, Seller shall, at its own expense, maintain and carry at least the following types and amounts of insurance coverage: (i) commercial general liability with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, including bodily injury and property damage and products and completed operations and advertising liability, which policy will include contractual liability coverage insuring the activities of Seller under this Agreement; (ii) workers' compensation with limits no less than the minimum amount required by applicable law; (iii) commercial automobile liability with limits no less than \$\_\_\_\_\_, combined single limit; and (iv) errors and omissions/professional liability with limits no less than \$\_\_\_\_\_ per occurrence and \$\_\_\_\_\_ in the aggregate.

b. All insurance policies required pursuant to this Section 18 shall: (i) be issued by insurance companies reasonably acceptable to Buyer; (ii) require that the insurance carriers give Buyer at least thirty (30) days' prior written notice of cancellation or non-renewal of policy coverage; provided that, prior to such cancellation, Seller shall have new insurance policies in place that meet the requirements of this Section 18; (iii) waive any right of subrogation of the insurers against Buyer; (iv) provide that such insurance is primary insurance, and any similar insurance in the name of or for the benefit of Buyer will be excess and non-contributory; and (v) name Buyer as an additional insured.

c. Upon Buyer's request, Seller shall provide Buyer with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section 18. This Section 18 shall not be construed in any manner as waiving, restricting, or limiting Seller's liability for any obligations imposed under this Agreement (including, without limitation, Seller's indemnification obligations under this Agreement).

**19. Confidential Information.**

a. Seller shall maintain any and all Confidential Information (defined below) of Buyer in the strictest confidence. Without Buyer's prior written consent, Seller shall not disclose, use, commercialize, make copies of, or otherwise appropriate, in whole or in part, any Confidential Information of Buyer. Without limiting the foregoing, Seller shall safeguard the Confidential Information and prevent the unauthorized, negligent, or inadvertent use, copying, or disclosure of the Confidential Information in a manner not less than that employed to protect its own similar confidential information and always with at least a reasonable degree of care. Notwithstanding the foregoing, Seller may disclose Confidential Information to its employees, contractors, and agents who have a "need to know" for purposes of this Agreement, provided that such employees, contractors, and agents are subject to a written obligation of

confidentiality at least as restrictive as this Agreement. “**Confidential Information**” means any information (written, oral, or stored in any information storage or retrieval medium or device) that is not generally available to the public and that Buyer treats as confidential or proprietary, including, without limitation, this Agreement, technical information, research, costs, customer information, supplier information, marketing plans, business studies, marketing strategies, pricing information, and financial information. Failure to mark any Confidential Information as confidential or proprietary shall not affect its status as Confidential Information under this Agreement. Confidential Information shall not include any information that: (i) is already known to Seller at the time of receipt or access without duty of confidentiality or other restriction; (ii) is or becomes publicly known through no wrongful act of Seller; (iii) is rightfully received from a third party without restriction and without breach of this Agreement; (iv) is independently developed by Seller without use of or reliance on the Confidential Information; or (v) is approved for release by Buyer’s written authorization.

b. If Seller becomes required to disclose Confidential Information by order of a government agency or bureau or a court of law or equity, Seller may make such disclosure, provided that Seller will first have provided Buyer with prompt written notice of such required disclosure and will take reasonable steps to allow Buyer to seek a protective order with respect to the Confidential Information required to be disclosed.

c. All Confidential Information disclosed pursuant to subsection (v) above shall remain subject to the confidentiality obligations of this Section 19. Upon request by Buyer, Seller shall return all Confidential Information in its possession or control. Seller acknowledges that all Confidential Information shall remain at all times Buyer’s property. Nothing in this Agreement shall be construed to convey any rights in or to the Confidential Information to Seller.

d. Seller acknowledges that its obligations under this Section 19 are necessary and reasonable in order to protect Buyer and Buyer’s business, that a breach of this Section 19 will cause irreparable injury to Buyer, and that damages arising from such breach may be difficult to ascertain. Accordingly, Buyer may seek specific performance and/or injunctive relief as a remedy for any such breach, in addition to any other remedies that may be available, in law, in equity or otherwise, without any requirement for the posting of any bond or other security or proving actual damages.

## **20. Miscellaneous.**

a. Assignment. Seller shall not assign, delegate, or subcontract any of its rights or obligations under this Agreement without the prior written approval of Buyer. Any such assignment, delegation, or subcontracting without Buyer’s prior written consent shall be void. Buyer may assign this Agreement at any time and without prior written consent of Seller.

b. Modification of Terms. Buyer may modify these Terms, in whole or in part, at any time without notice to Seller, by posting revised Terms on Buyer’s website. Seller’s continued supply of Goods or Services to Buyer shall constitute acceptance of such modified Terms; provided, however, that such modifications will not retroactively affect Purchase Orders that have previously been submitted by Buyer.

c. Severability. If one or more of the provisions of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such provision shall be modified or amended to the extent necessary to remove the invalidity, illegality, or unenforceability. If the amendment or modification of such provision is impossible, this Agreement shall be construed as if it never contained the invalid, illegal, or unenforceable provision, and such provision shall not affect any other provision of this Agreement.

d. Governing Law. This Agreement shall be construed and enforced in accordance with the substantive and procedural laws of the Commonwealth of Pennsylvania, without regard to principles of conflicts of law, and without regard to rules of construction relating to which party drafted this Agreement. This Agreement and the rights and obligations of the parties under this Agreement shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sales of Goods, as amended.

e. Exclusive Jurisdiction. The parties consent to the exclusive jurisdiction and venue of the courts of the Commonwealth of Pennsylvania, Bucks County, and the United States District Court for the Eastern District of Pennsylvania with respect to the enforcement of this Agreement, and the parties waive any objections to such exclusive jurisdiction and venue, including objection as to an inconvenient forum.

f. Waiver. No claim or right arising out of a breach of this Agreement by Seller may be discharged in whole or in part by a waiver of the claim or right, unless the waiver is in writing signed by an authorized representative of Buyer. Buyer's waiver or acceptance of any breach by Seller of any provisions of this Agreement shall not constitute a waiver of or an excuse for nonperformance as to any other provision nor as to any prior or subsequent breach of the same provision.

g. Commercial Transaction. Seller acknowledges, agrees, represents and warrants that the transactions contemplated by this Agreement are commercial transactions and not for personal, family, or household use.

h. Force Majeure. Neither party shall be liable to the other party for any delay or failure in performing its obligations under this Agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party ("Force Majeure Event"), including, without limitation, labor difficulties, fire, floods, earthquakes, casualty, accidents, acts of God, war, epidemic, pandemic, riots, civil disorder, terrorism, embargoes, or governmental acts or restrictions. Seller's economic hardship or changes in market conditions shall not be considered Force Majeure Events. Seller shall use best efforts to end the delay or failure of its performance, ensure that the effects of any Force Majeure Event are minimized, and resume performance under this Agreement. If a Force Majeure Event prevents Seller from carrying out its obligations under this Agreement for a continuous period of more than thirty (30) days, Buyer may terminate this Agreement immediately by giving written notice to Seller.

i. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

j. Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to be sufficiently delivered if sent by: (i) hand delivery; (ii) nationally recognized overnight courier; (iii) first-class mail; or (iv) electronic mail to the addresses set forth on the face of the Purchase Order or to such other address that may be designated by each party in writing. Such notice shall be effective on the earlier of actual receipt, refusal by the recipient or three (3) days after sending. Any party may change the address to which communications are sent by delivering notice of such change to the other party in accordance with this paragraph. Notice from a party's counsel shall be deemed notice from such party.

k. Attorneys' Fees. In the event of a dispute between the parties with regard to this Agreement that results in litigation, the prevailing party shall have its attorneys' fees, professionals' fees, and costs paid by the losing party, and such sum may be added to any judgment entered in the litigation. A party's right to the foregoing shall not merge with but shall survive the entry of judgment, and shall extend to appeals and collection.

l. Survival. All terms and provisions that, by their terms, should survive termination of this Agreement shall survive such termination, including, without limitation, Sections 11, 12, 15, 16, 17, 19, and 20

m. Remedies Cumulative. The remedies provided in this Agreement in favor of Buyer upon a breach of this Agreement by Seller shall not be deemed to be exclusive, but shall be cumulative and in addition to all other remedies exercisable by Buyer existing at law or in equity. Buyer may exercise all remedies, whether or not expressed, successively or concurrently.

n. Time Limitation. All claims, actions, and proceedings, legal or equitable, against Buyer must be commenced in court, if at all, within one (1) year after the cause of action has accrued, without judicial extension of time, or such claim, action, or proceeding is barred, time being of the essence of this Section 20.n.