



Control Number: 50431



Item Number: 52

Addendum StartPage: 0



Registration of Submetered OR Allocated

Utility Service

S6929

NOTE: Please **DO NOT** include any person or protected information on this form (ex: tax identification #'s, social security #'s, etc.)

Date: 01/10/2020

By: Legal

Docket No. **50431**
(this number to be assigned by the PUC after your form is filed)

PROPERTY OWNER: Do **not** enter the name of the owner's contract manager, management company, or billing company.

Name: **25020 Acorn Suite 200**
Mailing Address: **25020 Acorn Suite 200** City: **Mission Viejo** State: **CA** Zip: **92691**
Telephone# (AC): **(214) 349-8848** Fax # (if applicable):
E-mail:

NAME, ADDRESS, AND TYPE OF PROPERTY WHERE UTILITY SERVICE IS PROVIDED

Name: **Foxglove Apartments**
Mailing Address: **8450 Royal Ln** City: **Dallas** State: **TX** Zip: **75231**
Telephone# (AC): **(214) 349-8848** Fax # (if applicable):
E-mail: **c/o legal@conservice.com**
☒ Apartment Complex ☐ Condominium ☐ Manufactured Home Rental Community ☐ Multiple-Use Facility
If applicable, describe the "multiple-use facility" here:

INFORMATION ON UTILITY SERVICE

Tenants are billed for ☒ Water ☒ Wastewater ☐ Submetered OR ☒ Allocated ★★★
Name of utility providing water/wastewater: **City of Dallas TX**
Date submetered or allocated billing begins (or began): **11/01/2019** Required

METHOD USED TO OFFSET CHARGES FOR COMMON AREAS Check one line only.

☐ Not applicable, because ☐ Bills are based on the tenant's actual submetered consumption
☐ There are **neither** common areas **nor** an installed irrigation system

☐ **All common areas and the irrigation system(s) are metered or submetered:**
We deduct the actual utility charges for water and wastewater to these areas then allocate the remaining charges among our tenants.

☐ **This property has an installed irrigation system that is not separately metered or submetered:**
We deduct percent (**we deduct at least 25 percent**) of the utility's total charges for water and wastewater consumption, then allocate the remaining charges among our tenants.

☐ **This property has an installed irrigation system(s) that is/are separately metered or submetered:**
We deduct the actual utility charges associated with the irrigation system(s), then deduct at least 5 percent of the utility's total charges for water and wastewater consumption, then allocate the remaining charges among our tenants.

☒ **This property does not have an installed irrigation system:**
We deduct at least 5 percent of the retail public utility's total charges for water and wastewater consumption, and then allocate the remaining charges among our tenants.

★★★IF UTILITY SERVICES ARE ALLOCATED, YOU MUST ALSO COMPLETE PAGE TWO OF THIS FORM ★★★

Send this form by mail with a total of (3) copies to:
Filing Clerk, Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

METHOD USED TO ALLOCATE UTILITY CHARGES

Check the box or boxes that describe the allocation method used to bill tenants.

☒ **Occupancy method:** The number of occupants in the tenant's dwelling unit is divided by the total number of occupants in all dwelling units at the beginning of the month for which bills are being rendered.

<input type="checkbox"/> Ratio occupancy method: The number of occupants in the tenant's dwelling unit is adjusted as shown in the table to the right. This adjusted value is divided by the total of these values for all dwelling units occupied at the beginning of the retail public utility's billing period.	Number of Occupants	Number of Occupants for Billing Purposes
	1	1.0
	2	1.6
	3	2.2
	>3	2.2 + 0.4 for each additional occupant

<input type="checkbox"/> Estimated occupancy method: The estimated occupancy for each unit is based on the number of bedrooms as shown in the table to the right. The estimated occupancy in the tenant's dwelling unit is divided by the total estimated occupancy in all dwelling units regardless of the actual number of occupants or occupied units.	Number of Bedrooms	Number of Occupants for Billing Purposes
	0 (Efficiency)	1
	1	1.6
	2	2.8
	3	4.0
	>3	4.0 + 1.2 for each additional bedroom

☒ **Occupancy and size of rental unit** ☒ **50** percent (in which no more than 50%) of the utility bill for water/wastewater consumption is allocated using the occupancy method checked above. The remainder is allocated according to either:

- the size of the tenant's dwelling unit divided by the total size of all dwelling units, **OR**
- the size of the space rented by the tenant of a manufactured home divided by the size of all rental spaces.

☐ **Submetered hot water:**
The individually submetered hot water used in the tenant's dwelling unit is divided by all submetered hot water used in all dwelling units.

☐ **Submetered cold water is used to allocate charges for hot water provided through a central system:**
The individually submetered cold water used in the tenant's dwelling unit is divided by all submetered cold water used in all dwelling units.

☐ **As outlined in the condominium contract.** Describe:

☐ **Size of manufactured home rental space:**
The size of the area rented by the tenant divided by the total area of all the size of rental spaces.

☐ **Size of the rented space in a multi-use facility:**
The square footage of the space rented by the tenant divided by the total square footage of all rental spaces.

CONSERVICE®

The Utility Experts

RATIO UTILITY BILLING SERVICE AGREEMENT

Customer: PBIV - 9450 Roayl Lane, LP

Contact: _____

Address: 26020 Acero Ste 200

City, State, Zip: Mission Viejo, CA 92691

ACCEPTED FOR CUSTOMER BY:

DocuSigned by	
Signature: <u>Todd Edwards</u>	Signature: _____
Name: <u>Todd Edwards</u>	Name: _____
Title: <u>Operations Coordinator</u>	Title: _____
Date: <u>8/23/2019</u>	Date: _____

MY SIGNATURE ABOVE INDICATES THAT I HAVE CAREFULLY READ THIS AGREEMENT (the "Agreement"), INCLUDING THE ATTACHMENTS, COMPLETELY UNDERSTAND IT, AND HEREBY AGREE TO ALL OF IT. THIS AGREEMENT CONSISTS OF THE ATTACHED *SERVICE AND PRICING SCHEDULE* AND ANY ADDITIONAL TERMS AND CONDITIONS DESCRIBED ON THE ATTACHED SCHEDULE(S) AND FUTURE ADDENDA ALL OF WHICH ARE INCORPORATED HEREIN BY REFERENCE.

If this Agreement is signed by more than one party for Customer, they shall be jointly and severally liable for all obligations of Customer under this Agreement.

I CERTIFY THAT I AM AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF THE CUSTOMER, AND DO HEREBY AGREE TO THE CONTENT OF THIS AGREEMENT AND ITS SCHEDULES IN THEIR ENTIRETY.

ACCEPTED FOR CONSERVICE BY:

DocuSigned by	
Signature: <u>J. Matthew Miller</u>	
Name: <u>J. Matthew Miller</u>	
Title: <u>COO</u>	
Date: <u>9/12/2019</u>	



Conservice Service and Pricing Schedule

DocuSigned by:

Marc Triller

482CF8950A5C4CE...

Community Name: Foxglove Apartments

Management: Investor's Property Services

Legal Name: PBIV - 9450 Roayl Lane, LP

Complete Address: 9450 Royal Ln, Dallas, TX 75231

Tax ID: Units: 117 Beds: Wizard #:

Bill Delivery Preference: ☐ Ebill ☒ Mail

Contract Term: 12 Months

BILLING	<input type="checkbox"/> Conservice Collect <input checked="" type="checkbox"/> Community Collect		Monthly Conservice Invoice/Reimbursement Preferences Delivery Method: Email-foxgloveinvoices@ipsapts.com Payment Method:		Takeover: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Prior Customer/Provider: Paylease		<input checked="" type="checkbox"/> Multifamily <input type="checkbox"/> HOA <input type="checkbox"/> Student <input type="checkbox"/> Military <input type="checkbox"/> Commercial <input type="checkbox"/> WYSE	
	Method: <input checked="" type="checkbox"/> RUBS <input type="checkbox"/> Sub-metered <input type="checkbox"/> Direct Metered		Occupants to Bill: <input checked="" type="checkbox"/> New Move-ins <input checked="" type="checkbox"/> Lease Renewals <input checked="" type="checkbox"/> Employees		Retail Units: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Electronic Data Exchange (EDE): <input type="checkbox"/> Yes <input type="checkbox"/> No Tenant Software: Resman - 433 Accounting Software:	
	UTILITY	MATCH PREVIOUS	METHOD	CAD/FLAT AMOUNT	RAMP UP?	ADDITIONAL INFORMATION		
	Water	<input checked="" type="checkbox"/>		25%	<input type="checkbox"/>	Ramp up to NMI and LR as of TBD		
	Sewer	<input checked="" type="checkbox"/>		25%	<input type="checkbox"/>			
	Trash	<input checked="" type="checkbox"/>		0%	<input type="checkbox"/>			
	Pest	<input checked="" type="checkbox"/>	Flat Fee	\$5.00	<input type="checkbox"/>			
Stormwater	<input type="checkbox"/>	RUBS per Unit	0%	<input checked="" type="checkbox"/>	Rent/Ancillary: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Gas	<input type="checkbox"/>	RUBS 100% SqFt	0%	<input checked="" type="checkbox"/>				

FEE SCHEDULE	FEE NAME	FREQUENCY	OCCUPANT FEE	CLIENT PORTION	\$ OR %	RAMP UP
	Water/Sewer	Per Bill Mailed	\$0.00	Client Pays	\$0.50	<input type="checkbox"/>
	Trash/Pest	Per Bill Mailed	\$2.50	Client Retains	\$0.00	<input type="checkbox"/>
						<input type="checkbox"/>
						<input type="checkbox"/>
						<input type="checkbox"/>
						<input type="checkbox"/>
						<input type="checkbox"/>
Postal Increase Paid By: <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Resident/Tenant <input type="checkbox"/> Neither CPI Increase Paid By: <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Resident/Tenant <input type="checkbox"/> Neither						
Additional Information:					MSA: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Client Name:	

SYNERGY Services Used: (mark all that apply) <input type="checkbox"/> Vacant <input type="checkbox"/> Bill Pay <input type="checkbox"/> EPA Benchmarking (\$25 per month) <input type="checkbox"/> Owner Conversion (\$1,299) Expected close date: _____ <input type="checkbox"/> New Construction (\$250 per month)	SUB-METER EQUIPMENT If Applicable: Meter Type: Meter Model: Meter Size: Reading System: Measurement: Modem #: Conservice Install: Maintenance Plan: <input type="checkbox"/> Gold If unmarked, on-call pricing will apply	MISCELLANEOUS Products: <input type="checkbox"/> Control * <input checked="" type="checkbox"/> Full <input checked="" type="checkbox"/> Self <input type="checkbox"/> Vendor Mgmt <input type="checkbox"/> Resident Tools * <input type="checkbox"/> Check Scanning * <input type="checkbox"/> Sub-meter Installation * <input type="checkbox"/> Energy/ENERGYZE * *Terms and Fees listed on product addenda
--	--	--

CONTACTS	Contact Name	Role	Email	Phone
	Angie Soto	Community/Regional Manager	angie.soto@investorshq.com	214-341-8311
	Todd Edwards	IT Contact	todd.edwards@investorshq.com	949-900-6170
	Todd Edwards	Accounting Contact	todd.edwards@investorshq.com	949-900-6170
ADD. INFO				

Sales: Kim Macinnes

Account Manager: Amanda Tsipai (Implementation)

Customer Initials:

DS
TE

Conservice Initials:

DS
Jmm

I. DEFINITIONS. "Property" refers to the real property of Customer as listed in the Service and Pricing Schedule. "Property Contact" refers to the person designated by Customer as the primary contact at the Property. "Service and Pricing Schedule" refers to the form on page two of this Agreement. "Occupant" refers to any and all residents of the Property. "RUBS" refers to Ratio Utility Billing System, which is the billing method that Conserve will utilize to bill Occupants. "Customer" refers to the entity set forth on the signature page bound as a party to this Agreement. "Conserve" refers to Conserve LLC, a Utah limited liability company. "Effective Date" refers to the later of (1) the date on which the last party has signed this Agreement or (2) the date on which billing services commence.

II. BILLING SERVICES

A. Initial Customer Obligations: Customer agrees that it will provide Conserve with the following information as soon as possible following the execution of this Agreement (hereinafter referred to as "Initial Service Information"): an Occupant listing (rent roll), including an address listing for each unit, a copy of an Occupant lease or utility addendum, all utility bills received by the Property in the twelve (12) months preceding the Effective Date, and a copy of the Property's most recent property tax bill (if utility charges are contained on the tax bill). After receipt of all required Initial Service Information, Conserve will schedule a start date for the performance of RUBS billing services; and this start date will be determined by Conserve at its sole discretion. Conserve reserves the right to alter the scheduled start date at any time and at its sole discretion to ensure accurate delivery of services.

B. Recurring Customer Obligations: Customer shall appoint a full-time employee of the Property, such as the Property manager, to act as the Property Contact. In the event the Property Contact no longer works for the Property, becomes a part-time employee, or takes a leave of absence to exceed one month, Customer shall appoint a new Property Contact and shall promptly notify Conserve of the change. Unless electronic data exchange is used, Customer shall cause the Property Contact to provide Conserve with weekly Occupant status changes such as move-in and move-out information, including billing addresses, and any other information deemed by Conserve to be necessary for the ongoing calculation of Occupant bills; Property Contact shall provide Conserve with copies of Property utility bills from the local utility provider(s) within two business days of receipt.. Customer shall ensure that the Property Contact or other responsible property personnel participate in a training session with a Conserve representative prior to the commencement of Conserve's billing services and that any subsequently assigned Property Contact(s) participate in a training session with Conserve within one week of being assigned as Property Contact.

C. Billing Method: By selecting the specific RUBS billing method on the Service and Pricing Schedule, Customer is authorizing and directing Conserve to bill its Occupants according to that RUBS billing method. Subject to applicable laws, Customer may modify the billing method and calculations by notifying Conserve in writing at least 30 days before the change is effective. All billing statements will be sent via electronic billing (ebills) unless otherwise agreed to by the parties.

D. Occupant Leases: CUSTOMER WILL ENSURE THAT EACH AND EVERY OCCUPANT TO BE BILLED IS BOUND BY A SIGNED LEGAL AGREEMENT WITH CUSTOMER (such as a lease or rental agreement) TO PAY ALL RUBS BILLS AND ASSOCIATED FEES PRESENTED BY CONSERVE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT PRIOR TO THE COMMENCEMENT OF RUBS BILLING SERVICES FOR EACH OCCUPANT. Customer shall ensure that all fees to be billed or collected by Conserve from Occupants are agreed to in its written rental agreements, including, but not limited to, monthly billing fee(s), set-up fees, move-out fees, late fees and NSF fees. Customer shall indemnify, hold harmless and defend Conserve and its officers, employees and agents from and against any claims, losses, costs, damages, lawsuits, judgments, liabilities, including attorney's fees and expenses, arising or alleged to have arisen out of or resulting from the failure of Customer to meet its obligations in this paragraph.

E. Collecting Occupant Payments: When Conserve performs collection services (if the type of service listed on the Service and Pricing schedule indicates "collect"), it shall collect Occupant payments for the bills sent out pursuant to this Agreement. Conserve shall instruct the Occupants to mail all payments, timely or late, to a designated Conserve post office box where payments will be processed. Conserve shall also accept payments by phone or on-line (subject to a payment handling fee). Conserve will post payments each day on regular business days. When Conserve receives late payments, Conserve will credit them first to the oldest invoice then to the next oldest invoice and so forth until the applicable Occupant account is current. Conserve will accept full or partial payments and post them against the oldest outstanding invoice. Customer agrees to forward all Occupant payments received by Customer immediately to the Conserve post office box or enter the amount of the payment on the Conserve internet site. Conserve shall charge Occupants for checks returned for non-sufficient funds or other causes, as allowed by law, as indicated on the Service and Pricing Schedule. Conserve shall charge and retain Occupant late fees as indicated on the Service and Pricing Schedule. Customer shall be solely responsible for pursuing any legal remedies against Occupants who do not pay RUBS bills. In the event that Conserve is not providing "collect" services, and Customer is more than sixty days delinquent in the payment of any invoices or fees to Conserve, Conserve may immediately change the service provided to a "collect" service. Conserve may, at its option, send electronic bills to Occupants instead of paper bills (provided, however, that consent is obtained from each Occupant). Conserve hereby reserves any other rights and/or remedies Conserve may have against Occupants available to Conserve at law or in equity.

DS
TE

DS
JMM

F. Reporting and Holding Account Remittance: On a monthly basis, Conservice will provide Customer with Conservice's standard billing report package, which Conservice may change from time to time provided that the content of such reports does not materially change. Additional reports may be requested for additional fees. Conservice shall deposit all funds which Conservice collects from Occupants into a designated holding account. Each calendar month, Conservice will send the Customer a check for all monies due. The amount of the check will equal the total collected from the Occupants less all applicable service and collection fees that are to be retained by Conservice according to the Service and Pricing Schedule.

G. Payment of Invoices, Fees and Taxes: Customer agrees to pay all fees designated in this Agreement. Customer's obligations to pay all charges that shall have accrued during the term of this Agreement will survive any termination of this Agreement. Late payments by Customer will incur an interest rate charge of 1.5 percent per month on the unpaid balance, compounded daily, or the maximum allowed by law, whichever is less. If Customer will collect money from Occupants, invoices from Conservice will be due and payable in full within 30 days of the date of invoice. If Conservice will collect money from Occupants, Conservice shall first apply Occupants' payments to current and past due amounts owed to Conservice by Customer, and then transmit the balance to Customer. Customer shall pay all charges including permit fees and sales tax (Federal, State, and Local) which may be imposed or levied upon the services performed pursuant to this Agreement. Conservice reserves the right to suspend billing services if Customer is more than sixty days delinquent in payment of any fees owed pursuant to this Agreement.

H. Term and Pricing: The term of this Agreement shall commence on the Effective Date and, unless earlier terminated in accordance with the terms of this Agreement, shall remain in effect until Conservice has provided billing services for the number of months listed on the Service and Pricing Schedule. At the end of each term, this Agreement shall automatically renew for succeeding terms of one month. At the end of each twelve (12) month period, Conservice may increase the fees listed in the fee schedule by the greater of 5% or the annual percentage increase in the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor. In the event that the United States postal rate for first class service increases at any time during the term of this Agreement, Conservice may increase the monthly billing fee in the amount of the increase.

III. GENERAL TERMS

A. Cancellation and Breach: Either party shall have the right to terminate this Agreement upon any of the following: (1) Immediately upon written notice to the defaulting party in the event that the defaulting party materially breaches the terms hereof and fails to cure such breach within sixty (60) days after receipt of written notice thereof from the non-defaulting party; (2) immediately upon written notice in the event that the other party becomes subject to any bankruptcy or insolvency proceeding under federal or state law, makes a general assignment for the benefit of its creditors, becomes insolvent, becomes subject to direct control by a trustee, receiver or similar authority or terminates or suspends its business; or (3) without penalty upon thirty (30) day written notice. In the event of any termination of this Agreement by Conservice, the Customer will promptly pay Conservice for any and all services performed by Conservice on behalf of Customer prior to the effective date of termination, as well as all direct and indirect costs incurred by Conservice in order to collect the foregoing amounts, including, but not limited to, Conservice's reasonable attorney's fees.

B. Liability: FOR ANY AND ALL SERVICES PERFORMED PURSUANT TO THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, MONTHLY BILLING SERVICES), IN NO EVENT WILL CONSERVICE BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES, OR ANY KIND OR TYPE OF LOST BUSINESS, ACTUAL OR PERCEIVED LOST PROFITS, LOST DATA OR INFORMATION, ACTUAL OR PERCEIVED LOST REVENUES, OR ANY LOST SAVINGS, REGARDLESS OF ANY FAULT, AND REGARDLESS AS TO WHETHER CONSERVICE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. Conservice will only be liable for damages resulting from its proven gross negligence or intentional breach of this Agreement. Furthermore, Customer agrees that in no event will Conservice's aggregate liability for any and all claims, whether in contract, tort or any other theory of liability, exceed the total amount actually received by Conservice under this Agreement during the preceding two (2) calendar months prior to the month in which such losses or damages are said to have occurred (or, if no amounts have been received by Conservice under this Agreement in the preceding two months, the amounts Conservice received from Customer in the month in which the actual losses and damages occurred).

C. Indemnity: Subject to section B above, Customer and Conservice agree to indemnify, defend, and hold harmless each other and the other's directors, officers, employees and agents from and against all claims, losses and liabilities arising out of or resulting from the grossly negligent acts or willful misconduct of the indemnifying party's employees or agents and/or any acts performed by the other under the direction of the indemnifying party, its employees or agents.

D. Assignment and Succession: Either party may assign this Agreement. If this Agreement is assigned by Customer, Customer shall immediately provide Conservice written notice thereof, along with the name of the new owner, date of sale and any other information the Customer deems relevant. If Customer sells/transfers the Property and the transferee does not assume this Agreement at the time of the closing of the transfer, all outstanding amounts owed Conservice by Customer shall become immediately due and payable.

E. Governing Law and Arbitration: The information, interpretation and performance of this Agreement shall be governed by and construed according to the laws of the state in which the Property is located. Any controversy, claim or breach arising out of or relating to this Agreement shall be settled by binding arbitration, held in the state where the Property is located and administered by the American Arbitration Association under its Commercial Arbitration Rules. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

F. Waivers, Notices and Payment Performance: No term or provision of this Agreement will be considered waived by either party, and no breach excused by either party, unless such waiver or excuse of breach is, in writing, signed on behalf of the party against whom the waiver is asserted. No such waiver or excuse of breach of any provision of this Agreement by either party shall be deemed to be an ongoing waiver or excuse of subsequent breaches of any provision of this Agreement by the other party. No delay or omission in the exercise of any remedy shall impair or affect a party's right to exercise the same. All notices to the other party must be in writing and may be faxed, delivered personally, or sent by certified or registered mail, return receipt requested, or by a recognized overnight courier service. All notices shall be sent using the address designated in writing in this Agreement or subsequent addendum(s). Any notice shall be deemed given when delivered. Conservice may, at any time, decline to make any shipment or delivery or perform any work except upon receipt of payment or security satisfactory to Conservice. In the event that Customer fails to make any payment when due, or becomes insolvent, Conservice may either declare the entire sum remaining unpaid to be immediately due and payable and avail itself of any remedy in effect now or at the time of default under this Agreement, the Uniform Commercial Code or any other statute, including reasonable attorneys' fees.

G. Force Majeure: Conservice shall not be liable to Customer for any failure or delay caused by events beyond Conservice's control, including, without limitation, Customer's failure to furnish necessary information requested by Conservice; actions or inactions of Occupants (including non-payment of any amount due under this Agreement); actions or inactions of any government agency; sabotage; failure or delays in transportation or telecommunications; labor disputes; vendor failures; or shortages of labor, fuel or raw materials. In the event of any such delay or failure of performance, the date of delivery or performance shall, at the request of Conservice, be deferred for a period equal to the time lost by reason of the delay. In no event shall Conservice be liable for any delay or re-procurement costs for failure to meet any delivery or performance date.

H. Government Requirements: Customer shall be solely responsible for performing all government and/or utility company mandated tests and filings, such as safe drinking water or other testing, any and all state or local filings, and for ensuring that the services performed pursuant to this Agreement comply with all applicable regulations, including, but not limited to landlord tenant laws. Customer shall also be solely responsible for obtaining permission to perform sub-metering or allocation services from government agencies or utility companies (where required).

I. Amendments, Severability, Entire Agreement, Construction, Miscellaneous: No amendment or modification of this Agreement shall be valid or effective unless put into writing and signed by Conservice and Customer. If any portion of this Agreement is invalid, illegal or unenforceable the other portions shall not be affected in any way and this Agreement shall be interpreted to enforce such provision consistent with the intentions of the parties to the maximum extent permitted by applicable law. This Agreement and all currently attached and future exhibits, addendum(s), and schedules, which collectively are called the Agreement, shall constitute the entire Agreement. All prior negotiations, proposals, bids, orders and any other communications regarding the subject matter of this Agreement are superseded by this Agreement and there are no other understandings, agreements, or express or implied representations regarding the subject matter of this Agreement. Where this Agreement differs from any included Customer purchase order, this Agreement prevails. The parties agree that this Agreement was fully negotiated by the parties and, therefore, no part of this Agreement shall be interpreted against the party that drafted it. All paragraph captions are for reference only, and shall not be considered in construing this Agreement.