



LOTEK TERMS & CONDITIONS OF USE

Lotek Wireless Inc., Lotek UK Ltd., Lotek NZ Ltd., and/or Lotek USA Inc., hereinafter referred to as "Lotek", appreciates that you, the Customer (defined in Section 1 below), have selected Lotek as your wildlife telemetry equipment and/or services provider. We appreciate the complexity and importance of your project and your commitment to animal conservation and research. Lotek shares these values and will work continuously with you to help you achieve your goals. Lotek provides resources and expertise that help to provide you with the highest quality wildlife telemetry equipment and/or services possible. As part of this effort we have outlined the following Terms & Conditions of Use to help you better understand the legal relationship between the Customer and Lotek. Please read the Terms & Conditions of Use carefully before using your Equipment and/or Services (defined in Section 1 below). If you have any questions please contact a Lotek representative.

1 DEFINITIONS

In the Terms & Conditions of Use, the following words and expressions have the following meanings.

1.1 **Equipment and/or Services:** All products such as collars, tags, receivers, hydrophones, activators, and other equipment and/or services supplied by Lotek to the customer (including any advice or recommendations) and are as described on any invoices, quotation, work authorisation or any other forms as provided by the Lotek to the customer.

1.2 **Lotek:** The term Lotek, as previously defined above also includes Lotek, its successors and assigns or any person acting on behalf of and with the authority of Lotek.

1.3 **Customer(s):** Any individual, researcher, scientist, consultant, company, academic institution, regulatory body, government, governmental agency, other legal entity or purchaser however designated or constituted, or any person acting on behalf of and with the authority of these entities, who procure Equipment and/or Services from Lotek.

1.4 **Guarantor(s):** The person (or persons), or entity, who agrees to be liable for the debts of the Customer on a principal debtor basis.

1.5 **Price:** The price payable for the Equipment and/or Services as agreed between Lotek and the Customer in accordance with Section 3 of these Terms & Conditions of Use.

1.6 **Lotek IP:** Any and all intellectual property, including but not limited to, works, inventions (whether patentable or not), discoveries, trade secrets, know-how, scientific formulae, data, information, reports, results, analysis, software, embedded software, models, code sets, research and development information, technical information, prototypes, specifications, patterns, drawings, algorithms, mobile applications, products, compositions, manufacturing processes, processes and protocols, methods, tests, devices, computer programs, and includes any and all related rights including by not limited to, patent registrations, patent applications, copyright registrations, and copyright applications, that is incorporated into the Equipment and/or Services. For the purposes of this Terms & Conditions of Use, Lotek IP does not include trade names, trademarks, service marks, logos, domain names, and other distinctive brand features, including related trademark registrations, and trademark applications.

1.7 **Useful Life:** If the Equipment utilizes single use (primary) batteries, the Useful Life of the Equipment is the lesser of:

- the duration for which the Equipment conforms to its manufactured specification tolerances; or
- the duration for which there is viable energy contained within the single use batteries originally included within the Equipment.

If the Equipment does not utilize single use batteries, the Useful Life of the Equipment is the duration for which the Equipment conforms to its manufactured specification tolerances.

In all cases, if the Equipment is within the Warranty Life (as defined within the Lotek Limited Warranty), the Equipment will be considered within its Useful Life, even if the aforementioned criteria have not been met.

2 AGREEMENT TO TERMS & CONDITIONS OF USE

2.1 **IMPORTANT:** INSTRUCTING LOTEK TO SUPPLY THE EQUIPMENT AND/OR SERVICES, OR BY USING THE EQUIPMENT AND/OR SERVICES, THE CUSTOMER AGREES TO BE BOUND TO THESE TERMS & CONDITIONS OF USE ("T&C"). The Customer shall not use the Equipment and/or Services until they have read and understood the T&C.

2.2 Lotek provides the T&C in addition to other documents that govern the legal relationship between Lotek and the Customer. These documents outline other aspects of the Customer's use of Lotek Equipment and/or Services and they may apply to the Customer. The Customer should review the following documents to understand the additional terms and conditions that may apply to them.

(a) **Warranty** - For information about the warranty that is provided and the conditions of use, returns, limitations, limitations of liability, and disclaimers associated with the Equipment and/or Services, please review the Lotek Limited Warranty at [<https://www.lotek.com/legal/warranty/>].

(b) **Software** - For information about the download and use of Lotek software, please review the applicable Lotek Software Agreement at the time of download and/or installation of Lotek software.

(c) **Privacy** - For information about the use of the Lotek website and the data protection practices of Lotek please review the Lotek Privacy Policy at [<https://www.lotek.com/legal/privacy-policy/>]. This policy explains how Lotek treats your personal information and protects your privacy when you use Lotek website or purchase/use the Equipment and/or Services.

2.3 Where more than one Customer has entered into this T&C, the Customers shall be jointly and severally liable for all payments of the Price.

2.4 Upon acceptance of the T&C by the Customer, the T&C are binding and can only be amended with the written consent of Lotek.

2.5 The Customer shall give Lotek not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice). The Customer shall be liable for any loss incurred by Lotek as a result of the Customer's failure to comply with this Section 2.5.

2.6 All documents, faxes or emails (including but not limited to purchase orders) received from the Customer in order to facilitate the supply of Equipment and/or Services by Lotek to the Customer shall be subject to the T&C. In the event that any such documents should contain the Customers own terms and conditions then those terms and conditions will not be accepted as binding upon Lotek and Lotek's T&C will take precedence. Any terms of business laid down by the Customer which diverge from this T&C shall not apply. Any confirmation from the Customer that is based on the latter's own terms of business is hereby expressly refuted. The Customer's terms of business shall not become part of any agreements unless Lotek has expressly confirmed the same in writing.

3 PRICE AND PAYMENT

3.1 At Lotek's sole discretion the Price shall be either;

- (a) as indicated on invoices provided by Lotek to the Customer in respect of Equipment and/or Services supplied; or
- (b) Lotek's quoted Price (subject to Section 3.2) which shall be binding upon Lotek provided that the Customer shall accept Lotek's quotation in writing within thirty (30) days.

3.2 Lotek reserves the right to change the Price in the event of a variation to Lotek's quotation. The Customer should be aware that once an order is confirmed changes to the Equipment and/or Services cannot always be made. If it is possible to make changes in accordance with the Customer's request, the Customer will be advised of the cost of such change in writing (if applicable), and must confirm acceptance of this additional cost in writing before production is recommended. Please note that a request for a change to an order may delay the delivery date.

3.3 At Lotek's sole discretion a deposit may be required.

3.4 Time for payment for the Equipment and/or Services shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due on twenty (20) days following the end of the month in which the invoice was issued.

3.5 At Lotek's sole discretion payment shall be due before delivery of the Equipment and/or Services.

3.6 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit or by any other method agreed to between the Customer and Lotek. If the Customer pays using a credit card there will be a 3% surcharge fee additional to the Price.

3.7 The Customer is solely responsible for payment of all charges incurred in remitting payment to Lotek and shall ensure that the amount credited to Lotek's bank account is equal to the Price.

3.8 GST and any other taxes and/or duties that may be applicable shall be added to the Price.

4 DELIVERY OF EQUIPMENT AND/OR SERVICES

4.1 At Lotek's sole discretion delivery of the Equipment and/or Services shall take place when;

- (a) the Customer takes possession of the Equipment and/or Services at Lotek's address; or
- (b) the Customer takes possession of the Equipment and/or Services at the Customer's nominated address (in the event that the Equipment and/or Services are delivered by Lotek or Lotek's nominated carrier); or



(c) the Customer's nominated carrier takes possession of the Equipment and/or Services in which event the carrier shall be deemed to be the Customer's agent.

4.2 At Lotek's sole discretion the costs of delivery are;

- (a) included in the Price; or
- (b) in addition to the Price; or
- (c) for the Customer's account.

4.3 The Customer shall make all arrangements necessary to take delivery of the Equipment and/or Services whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Equipment and/or Services as arranged then Lotek shall be entitled to charge a reasonable fee for redelivery.

4.4 Delivery of the Equipment and/or Services to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of the T&C.

4.5 Lotek may deliver the Equipment and/or Services by separate installments. Each separate installment shall be invoiced and paid for in accordance with the provisions in the T&C.

4.6 The failure of Lotek to deliver shall not entitle either party to treat the T&C as repudiated.

4.7 Lotek shall not be liable for any loss or damage whatsoever due to failure by Lotek to deliver the Equipment and/or Services, or part thereof, promptly or at all.

5 TITLE

5.1 Lotek and Customer agree that ownership of the Equipment and/or Services shall not pass until:

- (a) the Customer has paid Lotek all amounts owing for the particular Equipment and/or Services; and
- (b) the Customer has met all other obligations due by the Customer to Lotek in respect of all contracts between Lotek and the Customer.

5.2 Receipt by Lotek of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Lotek's ownership or rights in respect of the Equipment and/or Services shall continue.

5.3 It is further agreed that:

- (a) where practicable the Equipment and/or Services shall be kept separate and identifiable until Lotek has received payment and all other obligations of the Customer are met;
- (b) until such time as ownership of the Equipment and/or Services shall pass from Lotek to the Customer Lotek may give notice in writing to the Customer to return the Equipment and/or Services, or any part thereof to Lotek. Upon such notice being given the rights of the Customer to obtain ownership or any other interest in the Equipment and/or Services shall cease;
- (c) the Customer is only a bailee of the Equipment and/or Services and until such time as Lotek has received payment in full for the Equipment and/or Services then the Customer shall hold any proceeds from the sale or disposal of the Equipment and/or Services on trust for Lotek;
- (d) until such time that ownership in the Equipment and/or Services passes to the Customer, if the Equipment and/or Services are converted into other products, the parties agree that Lotek will be the owner of the end products; and
- (e) if the Customer fails to return the Equipment and/or Services to Lotek then Lotek or Lotek's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Equipment and/or Services are situated as the invitee of the Customer and take possession of the Equipment and/or Services, and Lotek will not be liable for any reasonable loss or damage suffered as a result of any action by Lotek under this clause.

6 TITLE RISK

6.1 In the instance that Lotek retains ownership of the Equipment and/or Services at the time of delivery, all risk for the Equipment and/or Services passes to the Customer on delivery.

6.2 If any of the Equipment and/or Services are damaged or destroyed following delivery but prior to ownership passing to the Customer, Lotek is entitled to receive all insurance proceeds payable for the Equipment and/or Services. The production of the T&C by Lotek is sufficient evidence of Lotek's rights to receive the insurance proceeds without the need for any person dealing with Lotek to make further enquiries.

7 DEFECTS UPON RECEIPT OF THE EQUIPMENT AND/OR SERVICES

7.1 The Customer shall inspect the Equipment and/or Services on delivery and shall within fourteen (14) days of delivery (time being of the essence) notify Lotek of any alleged shortage in quantity, damage or failure to comply with the description or order. Where the Equipment and/or Services are considered by the Customer to be insufficient as described above, then the Customer shall afford Lotek an opportunity to inspect the Equipment and/or Services by returning them to Lotek (at the Customer's cost) within thirty (30) days of the delivery date, or a reasonable period of

time. If the Customer fails to comply with these provisions the Equipment and/or Services shall be presumed to be free from any insufficiency described above. For Equipment and/or Services, which Lotek has agreed in writing that the Customer is entitled to reject, Lotek's liability is limited to either (at Lotek's discretion) replacing the Equipment and/or Services or repairing the Equipment and/or Services.

7.2 For additional conditions associated with the use and/or return of defective Equipment and/or Services, which are hereby incorporated into the T&C by reference, please review Section 3 and 4 of the Lotek Warranty at [<https://www.lotek.com/legal/warranty/>]. Please note that no returns will be accepted without an authorized Lotek Return Material Authorization ("RMA") number.

8 CONSUMER GUARANTEES

8.1 If the Customer is acquiring Equipment and/or Services for the purposes of a trade or business, the Customer understands and acknowledges that the provisions of the Consumer Guarantees legislation within the local jurisdiction of the Lotek entity which has sold the Equipment and/or Services to the Customer, do not apply to the supply of Equipment and/or Services provided by Lotek to the Customer.

8.2 Please visit the below websites to help you learn more about your rights under Consumer Guarantees legislation. These websites are provided for convenience, Lotek has no responsibility, liability for, or control over, these third-party websites:

- (a) Canada – [<http://www.ic.gc.ca/eic/site/oca-bc.nsf/eng/ca02965.html>];
- (b) United Kingdom – [<https://www.which.co.uk/consumer-rights/regulation/consumer-rights-act>] related to the *Consumer Rights Act 2015*;
- (c) New Zealand – [www.consumeraffairs.govt.nz] related to the *Consumer Guarantees Act 1993*; and
- (d) United States – [<https://www.ftc.gov/about-ftc/bureaus-offices/bureau-consumer-protection>].

9 INTELLECTUAL PROPERTY AND LIMITED LICENSE

9.1 The Customer agrees they have no right or title in, and will not sublicense, transfer, or otherwise permit and/or authorize any other party to use Lotek IP. The Customer agrees not to use Lotek IP for any purposes except those of the intended designed purpose of the Equipment and/or Services as provided in Lotek documentation. The Customer agrees not to permit any person other than Customer employees that are on a need to know basis, to use the Lotek IP. Any other parties associated with the Customer, including but not limited to contract workers, subcontract workers, arms-length workers, temporary and casual workers, and volunteers, must be apprised of the nature of the Lotek IP and of the applicable obligations of confidentiality and non-use of the Lotek IP, and are themselves bound by at least as restrictive terms of Lotek IP use as those set forth herein.

9.2 All rights (including but not limited to intellectual property rights) related to the Lotek IP remain with Lotek. The Customer must not, and must not permit any third party to, disassemble, alter, copy, modify, repair, adapt, reverse engineer, create derivative works, decompile and/or otherwise attempt to extract Lotek IP within the Equipment and/or Services or any part thereof, unless this is expressly permitted or required by law, or unless the Customer has been authorized to do so by Lotek, in writing.

9.3 The Customer is aware that portions of the Equipment and/or Services presented may be protected by intellectual property rights which are owned by third parties ("Third Party IP"). The Customer may not modify, rent, lease, loan, sell, distribute or create derivative works based on Third Party IP (either in whole or in part) unless the Customer has obtained written authorization from Lotek or by the owner(s) of the Third Party IP content.

9.4 Limited License Grant – Where applicable, Lotek hereby permits the Customer, a limited, personal, revocable, non-exclusive, non-transferrable, license to use Lotek IP within the Equipment and/or Services, by the methods set forth in the associated documentation for the Equipment and/or Services purchased. Unless otherwise specified by Lotek, the license will terminate at the end of the Useful Life of the Equipment and/or Services purchased. This license is for the sole purpose of enabling the Customer to use the Equipment and/or Services provided by Lotek, in the manner permitted by the T&C.

9.5 The license granted herein does not permit the Customer to assign use rights or grant a sub-license in Lotek IP.

9.6 Unless the Customer has agreed otherwise in writing with Lotek, nothing in the T&C gives the Customer any right to commercial use of the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of Lotek. The Customer agrees that in using the Equipment and/or Services, the Customer will not use any trademark, service mark, trade name, logo of Lotek in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos. For clarity the Customer is free to publish and disclose research results arising from the use of Equipment and/or Services of Lotek, and may reference Lotek within all such publications as is scientifically appropriate.



9.7 The license granted herein permits the Customer to use Lotek IP defined as a trade secret that is incorporated into the Equipment and/or Services. For clarity, this license grant does not provide a right to the Customer for disclosure of the specifics of any Lotek IP trade secret. If such disclosure is to be provided to the Customer (at the full discretion of Lotek), it will require additional formalities included but not limited to the Customer signing a Non-Disclosure Agreement.

9.8 Where Lotek has designed, drawn or written Equipment and/or Services for the Customer, then the copyright in those designs and drawings and documents shall remain vested in Lotek, and shall only be used by the Customer at Lotek's discretion.

9.9 The Customer warrants that all designs or instructions to Lotek will not cause Lotek to infringe any patent, registered design or trademark in the execution of the Customer's order and the Client agrees to indemnify Lotek against any action taken by a third party against Lotek in respect of any such infringement.

9.10 Confidential Information – In the event Lotek or the Customer is provided any confidential information of the other (such as but not limited to confidential and/or proprietary information and documents relating to the Equipment and/or Services, or other information which is not generally known to the public), they shall treat that information as confidential, not use such information except as expressly permitted by the disclosing party, implement reasonable procedures to prohibit the disclosure, unauthorized duplication, misuse or removal of such information, and not disclose such information to any third party. Information is not considered confidential if it was generally known and available to the public at the time it was disclosed, or becomes generally known and available to the public through no fault of the receiving party; was known to the receiving party at the time of disclosure as shown by the receiving party's written records in existence at the time of disclosure, is publicly disclosed with the prior written approval of the disclosing party, becomes known to the receiving party from a source other than the disclosing party without breach of this T&C by the receiving party and in a manner that is otherwise not in violation of the disclosing party's rights; or is independently developed by the receiving party without reference to the information of the disclosing party as evidenced by the receiving party's written records.

10 DEFAULT & CONSEQUENCES OF DEFALUT

10.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due until the date of payment, at a rate of 2.5% per calendar month. Such interest shall compound monthly at such a rate before as well as after any judgement.

10.2 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify Lotek from and against all costs and disbursements incurred by Lotek in pursuing the debt, including but not limited to legal costs on an own client basis, and Lotek's collection agency costs.

10.3 Without prejudice to any other remedies Lotek may have, if at any time the Customer is in breach of any obligation (including those relating to payment), Lotek may suspend or terminate the supply of Equipment and/or Services to the Customer and any of its other obligations under the T&C. Lotek will not be liable to the Customer for any loss or damage the Customer suffers because Lotek has exercised its rights under this clause.

10.4 If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) may be levied for administration fees, which sum shall become immediately due and payable.

10.5 Without prejudice to Lotek's other remedies at law Lotek shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Lotek shall, whether or not due for payment, become immediately payable in the event that:

- (a) any money payable to Lotek becomes overdue, or in Lotek's opinion the Customer will be unable to meet its payments as they fall due;
- (b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

11 SECURITY AND CHARGE

11.1 Despite anything to the contrary contained herein or any other rights which Lotek may have:

- (a) where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to Lotek or Lotek's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Customer and/or the Guarantor acknowledge and agree that Lotek (or Lotek's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met;

(b) should Lotek elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify Lotek from and against all Lotek's costs and disbursements including legal costs on a solicitor and own client basis; and

(c) the Customer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint Lotek or Lotek's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this Section 11.1.

12 CANCELLATION

12.1 Lotek may cancel any contract to which these terms and conditions apply or cancel delivery of Equipment and/or Services at any time before the Equipment and/or Services are delivered by giving written notice to the Customer. On giving such notice Lotek shall repay to the Customer any sums paid in respect of the Price. Lotek shall not be liable for any loss or damage whatever arising from such cancellation.

12.2 In the event that the Customer cancels delivery of Equipment and/or Services the Customer shall be liable for any loss incurred by Lotek (including, but not limited to, any loss of profits) up to the time of cancellation.

13 PRIVACY

13.1 For information about the privacy practices of Lotek, please read the Lotek Privacy Policy at [<https://www.lotek.com/legal/privacy-policy/>]. This policy explains how Lotek treats your personal information and protects your privacy when purchase/use the Equipment and/or Services, or use the Lotek website. In addition to the Lotek Privacy Policy, the following privacy related Sections 13.2, 13.3, and 13.4 are provided for clarification purposes.

13.2 The Customer and the Guarantors (if separate to the Customer), authorises Lotek to:

- (a) collect, retain and use any information about the Customer, for the purpose of assessing the Customer's creditworthiness or marketing products and services to the Customer; and
- (b) disclose information about the Customer, whether collected by Lotek from the Customer directly or obtained by Lotek from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.

13.3 Where necessary for the local jurisdiction of the Lotek entity which has sold the Equipment and/or Services, and the Customer and/or Guarantors are an individual, the authorities under Section 13.2 are authorities or consents for the purposes of the applicable jurisdiction legislation including but not limited to:

- (a) Canada – *Privacy Act 1985*;
- (b) United Kingdom – *Data Protection Act 2018*;
- (c) New Zealand - *Privacy Act 1993*; and
- (d) United States – *Privacy Act 1974*.

13.4 The Customer and/or Guarantors shall have the right to request Lotek for a copy of the information about the Customer and/or Guarantors retained by Lotek and the right to request Lotek to correct any incorrect information about the Customer and/or Guarantors held by Lotek.

14 UNPAID SELLER'S RIGHTS

14.1 Where the Customer has left any item with Lotek for repair, modification, exchange or for Lotek to perform any other Service in relation to the item and Lotek has not received or been tendered the whole of the Price, or the payment has been dishonoured, Lotek shall have:

- (a) a lien on the item;
- (b) the right to retain the item for the Price while Lotek is in possession of the item;
- (c) a right to sell the item, and
- (d) the right to retain all or part of the proceeds of the sale of the item in payment of the Price and any interest due to Lotek and any costs associated with such sale.

14.2 The lien of Lotek shall continue despite the commencement of proceedings, or judgement for the Price having been obtained.

15 LIMITATIONS, LIMITATIONS OF LIABILITY, AND DISCLAIMERS

15.1 For terms relating to limitations, limitations of liability, and disclaimers associated with the purchase and/or use of Equipment and/or Services, which are hereby incorporated into the T&C by reference, please review Sections 5, 6, and 7 of the Lotek Limited Warranty at [<https://www.lotek.com/legal/warranty/>].

15.2 In the event damage remedies become available to the Customer, the Customer shall be limited to damages which under no circumstances shall exceed the Price of the Equipment and/or Services. If Lotek does not exercise or enforce any legal right or remedy which is contained in the T&C (or which Lotek has the benefit of under any



applicable law), this will not be taken to be a formal waiver of Lotek rights, and that those rights or remedies will still be available to Lotek.

16 GENERAL

16.1 When the Customer uses the Equipment and/or Services, as a result of, or in connection with your use of the Equipment and/or Services you may use a component, service, software download, good, or otherwise, which is provided by a third-party person or company (for example, Argos, Iridium, cell service, or otherwise). The Customer use of this component, service, software, good, or otherwise, may be subject to separate terms between you and the third-party company or person concerned. The T&C do not in any way govern or impact your legal relationship with these other third-party companies or individuals.

16.2 Lotek reserves the right to modify, adapt or discontinue, temporarily or permanently, the Equipment and/or Services, or any features, portions thereof, or documentation associated with the Equipment and/or Services without prior notice. The Customer agrees that Lotek will not be liable for any modification, adaptation, suspension or discontinuance of the Equipment and/or Services, or any part thereof.

16.3 The T&C constitutes the whole legal agreement between you and Lotek in relation to the subject matter contained herein, and it completely replaces any prior agreements between you and Lotek in relation to this subject matter. The T&C may not apply to equipment and/or services which Lotek provides to you under a separate written agreement specifically excluding the T&C.

16.4 If any provision of the T&C is found to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

16.5 The T&C and any contract to which they apply shall be governed by the laws of the local jurisdiction of the Lotek entity which has sold the Equipment and/or Services to the Customer and are subject to the jurisdiction of the courts of that jurisdiction. The Customer and Lotek agree to submit to the exclusive jurisdiction of the courts located within the county of the local jurisdiction of the Lotek entity which has sold the Equipment and/or Services to resolve any legal matter arising from the T&C. Notwithstanding this, you agree that Lotek shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

16.6 The failure by Lotek to enforce any provision of the T&C shall not be treated as a waiver of that provision, nor shall it affect Lotek's right to subsequently enforce that provision.

16.7 The Customer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Customer by Lotek.

16.8 Lotek may license or sub-contract all or any part of its rights and obligations without the Customer's consent.

16.9 Neither party shall be liable for any default due to any act of God, war, terrorism, fire, flood, drought, earth quake, storm or other event beyond the reasonable control of either party.

16.10 Lotek is constantly innovating in order to provide Customers with the best possible experience. The Customer acknowledges and agrees that the form and nature of the Equipment and/or Services which Lotek provides may change from time to time without prior notice to you.

16.11 Lotek may make changes to the T&C from time to time. When these changes are made, Lotek will make a new copy of the T&C available at [<https://www.lotek.com/legal/>] and any new additional terms may be made available to you within, or through notification. The Customer understands and agrees that if you use the Equipment and/or Services after the date on which the T&C has changed, Lotek will treat your use as acceptance of the updated T&C. The Customer agrees that Lotek may provide you with notices, including those regarding changes to the T&C, by email, regular mail, or postings on the Equipment and/or Services.

16.12 The Customer acknowledges and agrees that each member of the Lotek companies, of which the Lotek entity that has sold the Equipment and/or Services is part of, shall be third party beneficiaries to the T&C and that such other companies shall be entitled to directly enforce, and rely upon, any provision of the T&C which confers a benefit on (or rights in favor of) them. Other than this, no other person or company shall be third party beneficiaries to the T&C.

16.13 If the Customer is a business entity, then the individual accepting on behalf of the entity (for the avoidance of doubt, for business entities, in these T&C, "you" means the entity) represents and warrants that he or she has the authority to act on your behalf, that you represent that you are duly authorized to do business in the country or countries where you operate, and that your employees, officers, representatives, and other agents using the Equipment and/or Services are duly authorized to access them and to legally bind you to the T&C.

16.14 The T&C will continue to apply until terminated by either the Customer or Lotek as set out below.

16.15 Lotek may at any time, terminate its legal agreement with the Customer if:

- (a) the Customer has breached any provision of the T&C (or have acted in manner which clearly shows that the Customer does not intend to, or is unable to comply with the provisions of the T&C); or
- (b) Lotek is required to do so by law (for example, where the provision of the Equipment and/or Services to the Customer is, or becomes, unlawful); or
- (c) a partner with whom Lotek has collaborated to offer the Equipment and/or Services to you has terminated its relationship with Lotek; or
- (d) the provision of the Equipment and/or Services to the Customer by Lotek is, in the opinion of Lotek, no longer commercially viable.

16.16 When the T&C comes to an end, all of the legal rights, obligations and liabilities that the Customer and Lotek have benefited from, been subject to (or which have accrued over time whilst the T&C has been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation.

16.17 The Recitals listed herein form part of the T&C. Headings used in the T&C are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section or in any way affect the T&C.