Getinge Standard Software Licensing Terms and Conditions

These software licensing terms and conditions (the "Software Terms and Conditions") form a part of and are incorporated into the Master Agreement Getinge Software Solutions (the "Agreement"), and govern the licensing of any software Products under the Agreement. Any additional or different terms proposed by Customer, in a purchase order or otherwise, are expressly rejected and will not be binding upon Getinge unless agreed to in writing. Any oral or written representation, warranty, course of dealing or trade usage not contained in these Software Terms and Conditions shall not be binding on either party. By entering into the Agreement or using any software Products, Customer hereby agrees to the following:

1) <u>General</u>. The software, Documentation (as defined herein), interfaces, content, and any data that came with or embedded in the Product(s) (the "Original Getinge Software"), as may be updated, replaced, or restored by Getinge (the "Getinge Software Updates"), whether in read only memory, on any other media or in any other form (the Original Getinge Software and the Getinge Software Updates are collectively the "Getinge Software") are licensed, not sold, to Customer by Getinge for use only under these terms and conditions. Getinge and its licensors retain ownership of the Getinge Software and reserve all rights not expressly granted to Customer. The term "Documentation" as used herein refers to the technical written material which relates to the Original Getinge Software and Getinge Software Updates, describes the functionality of the software and instructs Customer's personnel in the use of the Getinge Software, as may be amended, revised or corrected from time to time by Getinge, without limitation, training documentation, manuals, troubleshooting guides, tip sheets, FAQ sheets and such other technical documentation describing the functional, operational or performance capabilities of the Original Getinge Software or Getinge Software Updates.

2) <u>License Grant</u>. Subject to all of the terms and conditions of the Agreement, Getinge (referred to herein also as "Licensor") hereby grants to Customer (referred to herein also as "Licensee") a personal, non-exclusive, non-transferable, non-sublicensable, limited license (or licenses) to use the Getinge Software, exclusively by the Customer at one or more of its facilities and locations, and solely for Customer's internal business purpose in the operation of the Products provided by Getinge under this Agreement, including equipment and devices specifically listed in any quotation attached to the applicable Agreement. The foregoing license (all licenses issues hereunder to be referred to collectively as a "license") shall apply only to Customer and its officers, employees, authorized agents and service providers (subject to Section 6 below) (collectively, "Customer Personnel").

3) <u>Third-Party and Open Source Software</u>. The Software may contain third-party software, including open source software ("Third-Party Software"). All such Third-Party Software and the terms and conditions upon which use is granted are specified in the Documentation and control solely with respect to Third-Party Software.

4) <u>Project Charter and Scope</u>. The Parties shall cooperate in good faith to order for Getinge personnel to install and configure the Getinge Software on Customer's premises as set forth in the applicable Project Charter and Scope agreed to by the Parties and attached to the applicable Agreement (the "Installation Services").

5) <u>Upgrades, Maintenance, and Support Services</u>. If Customer elects the Limited License option for a Product without a Service Plan, Customer shall be entitled to receive corrections, updates, and bug fixes that Licensor makes generally available to its customers commencing on the Effective Date and continuing for 12 months. If Customer elects a Service Plan option for a Product, and upon payment by Customer of the applicable Service Plan Fees in accordance with the payment schedule,

set forth on the applicable quotation or proposal, Customer shall be entitled to receive subsequent releases of the applicable Getinge Software that Licensor makes generally available to its customers and the support services specified in the Service Plan entitlements [website link] (collectively, "**Maintenance and Support Services**"). For the avoidance of doubt, the Limited License option without a Service Plan does not include any upgrades or Maintenance and Support Services unless Customer elects the one-time upgrade option or the Service Plan option, and in each case, pays the applicable Fees.

6) <u>Service Providers</u>. With Licensor's prior written consent, Customer may permit service providers to access the Getinge Software and all upgrades and corrections thereof solely for the purpose of providing facility, implementation, systems, application management or disaster recovery services to Customer in connection with the business of Customer for which the Software is herein licensed; provided: (i) these rights will continue only while Customer and such service provider have in place a written agreement that includes provisions requiring such service provider's compliance with the terms of this Agreement prior to such access, including without limitation non-disclosure of Licensor's Confidential Information; (ii) under no circumstances may such services provider use the Getinge Software or any upgrades and corrections thereof in connection with such service provider's own business operations; and (iii) Customer expressly agrees to indemnify Licensor, its officers, employees, agents and subcontractors from and against all claims, liabilities, losses, damages and costs (including reasonable attorney fees) suffered by Licensor arising from a breach by the service provider of the conditions of this Agreement. Upon Licensor's request, Customer shall provide written confirmation to Licensor that items (i)-(iii) are fulfilled.

7) <u>Proprietary Rights</u>. Customer acknowledges that Licensor is the exclusive owner of all right, title and interest in the Getinge Software any upgrades and corrections thereof, and all Documentation, regardless of any participation or collaboration by Customer in the design, development or implementation of any such Getinge Software Updates, correction or Documentation. Customer further acknowledges that, as between the parties, Licensor is the owner and holder of all copyrights, patent, trademark, trade secret and other proprietary rights therein (collectively, "Proprietary Rights"), and reserves all such Proprietary Rights to itself except as expressly licensed to Customer hereunder. To the extent that any Proprietary Rights do not otherwise vest in Licensor, Customer hereby agrees to promptly assign such Proprietary Rights to Licensor, and to do all other acts reasonably necessary to perfect Licensor's ownership thereof, without additional consideration of any kind.

8) <u>Proprietary Notices</u>. Customer shall not remove any copyright, patent, trademark or other proprietary or restrictive notice or legend contained or included in any of the Getinge Software.

9) <u>License Restrictions</u>. Nothing in the Agreement shall be construed as an implied grant to Customer of any right to, and Customer shall not, and shall not permit any any third party to, (i) use or reproduce any of the Getinge Software in any format, (ii) rent, lease, lend, sell, distribute, publish, disclose or allow use of any of the Getinge Software, in any format, through any timesharing service, service bureau, network or by any other means, to or by any third party other than Customer Personnel, (iii) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms of any of the Getinge Software by any means whatsoever, (iv) modify or alter any of the Getinge Software in any manner whatsoever. Customer shall cause its systems administrator and end user employees to comply with the terms and conditions of the Agreement. Customer shall cooperate with Getinge, and shall render all reasonable assistance requested by Getinge, to assist Getinge in preventing and identifying any use of or access to the Getinge Software, by Customer Personnel or otherwise, in violation of the terms and restrictions of the license granted herein or any other breach of the Agreement.

10) <u>Customer Obligations; Security</u>.

a)   *Customer Obligations*. In furtherance of the foregoing, Customer shall (i) grant to Getinge such reasonable access to the Customer equipment and Customer premises, as shall be necessary or appropriate to enable Getinge to perform its obligations hereunder; (ii) cooperate fully with Getinge in the providing of the services hereunder; (iii) provide adequate resources to participate in or facilitate the performance of the services; (iv) timely participate in meetings and make its personnel readily available for such meetings; (v) ensure that any Customer Personnel that have access to the Getinge Software have been trained in accordance with the training protocols established from time to time by Getinge,(vi) assign Customer Personnel with relevant training and experience to work in consultation with Getinge, if applicable, and (vii) timely and properly install all applicable upgrades and corrections as instructed by Licensor (each, a "Customer Obligation").

b)   *Security*. Customer is responsible for the security of Customer's systems and data, including Getinge Software on Customer's systems. Customer warrants that it will take commercially reasonable steps to exclude malware, viruses, spyware, and Trojan horses. Customer acknowledges and agrees that these security obligations shall also be deemed a Customer Obligation hereunder.

11) <u>No Unauthorized Use</u>. Customer shall use the Getinge Software only for the purposes that are expressly authorized by this Agreement and shall not engage in any unauthorized use of the same. Unauthorized uses include, but are not limited to, the use of the Getinge Software (i) without properly implementing all applicable updates, upgrades and corrections as instructed by Licensor; (ii) after this Agreement or the Service Plan has expired or terminated; (iii) in breach of any Customer Obligation; (iv) is inconsistent with the Documentations or authorized uses, or (v) in violation of any laws and regulations (each an "Unauthorized Use").

12) <u>Confidentiality and Data Privacy</u>.

a)   *Confidential Information*. The parties agree that the Getinge Software, upgrades, corrections, documentation, pricing, discounts and other terms offered to Customer, including, without limitation, the material terms of this Agreement, any functional limitations of, or errors in, the Getinge Software and any other materials provided by Licensor are the confidential property of Licensor, and that any confidential business, technical, financial or other information disclosed by one party to the other pursuant to this Agreement is the confidential information of the disclosing party (collectively, "Confidential Information"). Except as expressly and unambiguously allowed in Section 12(b) or elsewhere herein, each party shall hold Confidential Information in confidence and shall not use such information for purposes unrelated to this Agreement. Each party will limit access to the other party's Confidential Information to authorized Customer Personnel (with respect to Customer) or to those of its or its affiliates' personnel, agents or consultants who have a need for such access, and in each case, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information. In addition, each party will protect the other party's Confidential Information from unauthorized use, access, or disclosure in a substantially similar manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. Upon termination or expiry of this Agreement, each party shall: (i) return to the other party all documents and tangible materials containing, reflecting, incorporating or based on the other party's Confidential Information; and (ii) permanently erase the other party's Confidential Information from its computer systems, except, in each case, to the extent that the such party requires or will require such Confidential Information to exercise any of its surviving rights or to perform any of its surviving obligations under this Agreement; (ii) permanently erase the other party's Confidential Information from its computer systems; and (iii) certify in writing to the other party that it has complied with the requirements of this Section 12(a).

b) *Permitted Disclosure*. A party shall not be obligated under Section 12(a) with respect to information that it can document: (i) is or has become readily publicly available without restriction through no fault of such party or its personnel, (ii) is received, without restriction, from a third party lawfully in possession of such information and lawfully empowered to disclose such information, (iii) was rightfully in such party's possession without restriction prior to its disclosure by the other party, or (iv) such party can prove, by clear and convincing evidence, was independently developed by employees and contractors of such party who had no access to the disclosing party's Confidential Information. In addition, a party may disclose the other party's Confidential Information to the extent that such disclosure is required by applicable law or by the order of a court or similar judicial or administrative body, provided that the such party promptly notifies the other party in writing of such required disclosure and cooperates with the other party if the other party seeks an appropriate protective order.

c) *Data Privacy*. Getinge acknowledges and agrees that the Getinge Software may allow for the processing of patient protected health information as defined by the Health Insurance Portability and Accountability Act and the Health Information Technology for Economic and Clinical Health Act adopted as part of the American Recovery and Reinvestment Act of 2009, and any regulations and official guidelines promulgated thereunder (collectively, "HIPAA"). Getinge agrees to protect the confidentiality of any patient protected health information and comply with all applicable state and federal privacy laws, rules and regulations, including, without limitation HIPAA, and any applicable Business Associate Agreement executed by and between the parties. The Licensee is the owner of any personal and patient data processed by the Getinge Software and agrees that Licensee shall be fully responsible to ensure that all such data processed by way of the Licensee's use of the Software (i) is conducted in compliance with all applicable data privacy laws and regulations, including without limitation, HIPAA; and (ii) has been legally collected from all individuals and, where applicable, with properly informed consents and other permissions from the individuals and patients and, if required, the relevant regulatory authorities.

13) <u>Compliance with Laws</u>. The Licensee is solely responsible for: (a) using the Getinge Software in accordance with all applicable laws, rules, and regulations, including without limitation, HIPAA any and all export, data protection and privacy laws, rules and regulations, as applicable; (b) developing and implementing any applicable operating measures, control procedures, contractual requirements and security measures for all data collected or processed by or on behalf of Licensee; and (c) protecting any data collected, processed or transferred by or on behalf of Licensee, each of which shall be deemed a Customer Obligation.

14) <u>Software Services</u>. Getinge represents and warrants that Installation Services and Maintenance and Support services (collectively, the "**Services**") shall be performed by qualified personnel in a professional and workmanlike manner. Customer's sole remedy for breach of this warranty shall be re-performance of the nonconforming services, provided that Licensor must have received written notice of the nonconformity from Customer no later than thirty (30) days after the original performance of the Services by Licensor.

15) <u>Audit</u>. Getinge may, at any time, upon giving the Licensee reasonable notice, itself or with the assistance of a designated third party, audit the Licensee's use of the Getinge Software in accordance with the license granted herein. Any audit conducted pursuant to this Agreement will be performed during normal business hours. Getinge will perform the audit during Customer's normal business hours unless impracticable or if otherwise agreed by the parties. The audit will be performed at Getinge's expense; provided however, if the audit reveals a breach of Licensee's obligations to comply with this Agreement, Getinge shall, in addition to any other remedies

available to Getinge at law or in equity, be reimbursed by the Licensee for any costs incurred in relation to such audit.

16) <u>Software License Term and Termination</u>.

a) *Term.* The term of the software license granted under this Agreement shall be perpetual, unless this Agreement is sooner terminated for any reason by either party upon at least ninety (90) days' written notice to the other party. Customer acknowledges that Licensor releases new versions of the Getinge Software periodically and that if Licensee permits a Service Plan to lapse for more than 1 (one) year, fails to install or otherwise fails to cooperate with Licensor to install, an update or upgrade necessary for full and proper functionality of the Getinge Software, Licensee may lose full and proper functionality of the Getinge Software. Over time such Getinge Software may not be supported.

b) *Termination.* Either party shall be entitled to terminate this Agreement immediately upon delivery of written notice of such termination to the other party in the event that the other party breaches any material terms or conditions herein and fails to cure such breach within thirty (30) days after the non-breaching party delivers notice of such breach to the breaching party.

c) *Events Upon Termination.* Upon any termination of this Agreement for any reason, Customer shall immediately (i) cease, and cause Customer Personnel to cease, all use of the Getinge Software, upgrades, corrections and documentation (ii) for Customers with a Service Plan, either return to Licensor all copies of the Getinge Software, upgrades, corrections and documentation then in Customer's possession or control or permit Licensor access to Customer's premises and reasonably cooperate with Licensor to uninstall and remove the applicable Getinge Software (and any upgrades, corrections and documentation) if requested by Licensor, and (iii) certify to Licensor in writing that it has retained no copies of the same and will cease all use of the Getinge Software. Upon any termination of this Agreement, Licensor may, at its sole discretion, disable any Getinge Software. Upon any termination of this Agreement, Licensor shall invoice Customer for all accrued Fees and all reimbursable expenses, and Customer shall pay the invoiced amount immediately upon receipt of such invoice.

d) *Survival*. In the event of termination of this agreement for any reason, the provisions of Sections 6-9, 12, 16(c), 18(b), 19-22, shall survive.

17) <u>Limited Warranties and Disclaimer</u>.

a) <u>*Software Warranty*</u>. Licensor warrants that, for a period of ninety (90) days after the date of delivery of the Getinge Software to Customer ("Warranty Period"), the Software shall conform in all material respects to the applicable documentation. For purposes of this Warranty, Getinge Software shall be deemed delivered upon completion of Installation Services and Customer's acceptance signature on the Implementation Plan applicable to the Software. Customer's sole remedy for any breach by Licensor of the warranty provided in this Section 17(a) shall be replacement of the nonconforming Getinge Software, at Licensor's sole expense, in accordance with Section 15(a). Any compatible or accessory hardware purchased by Customer in connection with Getinge Software, including the hardware that contains Tegris, shall be covered by Getinge's standard warranty terms and policy for such products.

18) <u>Exclusive Remedy</u>. If, during the Warranty Period, Customer discovers that any Software fails to conform to the warranty provided in Section 14(a), Customer shall give Licensor written notice of such nonconformance promptly after such discovery. Licensor shall deliver to Customer replacement Software as may be necessary to correct the nonconformance. In the event that Customer gives Licensor notice of an apparent nonconformance that Licensor reasonably determines is not due to any fault or failure of the Getinge Software to conform to the warranty provided in Section 14(a), all time spent by Licensor personnel resulting in such determination, including time spent attempting to correct the problem, shall be billable to Customer and the warranty remedies set forth herein shall not apply.

19) <u>Disclaimer</u>. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES TO ANY PERSON OR ENTITY WITH RESPECT TO THE GETINGE SOFTWARE, UPGRADES, CORRECTIONS, DOCUMENTATION OR THE SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: THE GETINGE SOFTWARE, UPGRADES, CORRECTIONS, AND DOCUMENTATION ARE PROVIDED "AS IS," AND LICENSOR DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE GETINGE SOFTWARE, UPGRADES, CORRECTIONS, DOCUMENTATION OR ANY INFORMATION CONTAINED THEREIN OR OTHERWISE PROVIDED PURSUANT TO THIS AGREEMENT, OR OF THE SERVICES, IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. LICENSOR DOES NOT WARRANT THAT OPERATION OF ANY COMPONENT OF THE GETINGE SOFTWARE, UPGRADES, CORRECTIONS, DOCUMENTATION OR THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL DEFECTS WILL BE REPAIRED. WITHOUT LIMITING THE FOREGOING, LICENSOR SPECIFICALLY DISCLAIMS ALL EXPRESS WARRANTIES NOT STATED HEREIN AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF SATISFACTORY QUALITY, COURSE OF DEALING, TRADE USAGE OR PRACTICE, MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. NO LICENSOR AGENT OR EMPLOYEE IS AUTHORIZED TO MAKE ANY EXPANSION, MODIFICATION OR ADDITION TO THIS LIMITATION AND EXCLUSION OF WARRANTIES IN THIS AGREEMENT. LICENSOR HAS NO RESPONSIBILITY OR LIABILITY ARISING FROM OR RELATED TO: (1) ANY DATA OR DATA OUTPUT CONTAINED IN THE SOFTWARE, UPGRADES, CORRECTIONS, OR DOCUMENTATION, (2) THE USE, MISUSE, ABUSE, IMPROPER, OR UNAUTHORIZED USE OF, OR INABILITY TO USE, THE GETINGE SOFTWARE, UPGRADES, CORRECTIONS, DOCUMENTATION OR THE SERVICES (IN WHOLE OR IN PART) OR ANY OTHER GETINGE SOFTWARE, UPGRADES, CORRECTIONS, DOCUMENTATION OR THE SERVICES PROVIDED TO CUSTOMER BY LICENSOR; OR (3) THE USE OF THIRD PARTY PRODUCTS OR ANY OTHER PRODUCTS NOT MANUFACTURED BY OR SOLD UNDER THE LICENSOR MARK (REGARDLESS OF WHETHER PURCHASED FROM OR FURNISHED BY LICENSOR).

20) <u>Indemnification</u>.

a)   Licensor shall indemnify and hold harmless Customer and its officers, employees and agents (collectively with Customer, "Included Indemnitees") from and against all third party claims, losses, damages, liabilities and lawsuits (including reasonable attorney fees) arising from infringement by the Getinge Software, Upgrades, Corrections or Documentation of any third party's copyrights or trademarks or misappropriation of a trade secret. In the event that Customer's use of the same is enjoined as a result of such a claim, Licensor may, at its sole option and expense, either (i) procure for Customer the rights necessary to continue using the enjoined Getinge Software, Upgrade, Correction or Documentation, or (ii) replace or modify the same so that it no longer infringes or misappropriates the third party's rights, while such replaced or modified software remains in compliance with the warranty provided in Section 14(a). If Licensor, in its sole discretion, determines that neither of these options is commercially reasonable, Licensor may terminate this Agreement for the affected Getinge Software and, upon return of the Getinge Software, refund to Customer prepaid but unused applicable license fees paid by Customer for the terminated license. The indemnity set forth in this Section 16 shall be Customer's exclusive remedy for any claim of infringement or misappropriation in connection with the subject matter of this Agreement.

b)   Customer shall indemnify and hold harmless Licensor and its officers, employees and agents from and against all third party claims, losses, damages, liabilities and lawsuits (including reasonable attorney fees) arising from any Unauthorized Use by Customer or Customer Personnel of the Getinge Software, Upgrades, Corrections or Documentation (including personal injury claims).

c)   Licensor's indemnification obligations under Section 16(a) are contingent upon (i) Customer giving Licensor prompt written notice of such claim, loss, expense, damage, liability or lawsuit, (ii) the Included Indemnitees cooperating with Licensor in the defense and/or settlement thereof, and (iii) Licensor having an opportunity to assume control of such defense. Licensor shall not be responsible for any settlement that it does not approve in writing. Licensor expressly reserves the right to cease such defense of any claim(s) in the event the Getinge Software is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights. Licensor may settle or mitigate damages from any claim or potential claim by substituting alternative substantially equivalent non-infringing programs and supporting documentation for the Getinge Software. Customer shall not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Getinge Software that is prejudicial to Licensor's rights.

d)   Licensor's indemnification obligations under Section 16(a) shall not apply where the claim is based in whole or in part on (i) modifications to the Getinge Software, upgrade, correction or documentation made by Customer; (ii) use of the Getinge Software, upgrade, correction or documentation in combination with a product not supplied by Licensor, or (iii) use of the Getinge Software, upgrade or correction other than in accordance with this Agreement or Getinge documentation; or to the extent that the losses are caused by Customer's fraud, willful misconduct or negligence, Customer's failure to promptly use an updated version of the Getinge Software, upgrade or correction if such infringement or misappropriation could have been avoided by use of the update, or Customer's breach of any Customer Obligation.

21) <u>Limitation of Liability</u>.

a) *Types of Damages*. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER LICENSOR NOR ITS AFFILIATES OR SUPPLIERS WILL BE LIABLE TO CUSTOMER OR CUSTOMER PERSONNEL FOR ANY LOSS OF PROFITS, OR SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING DAMAGES OR COSTS DUE TO LOSS OF DATA, REVENUE, GOODWILL, PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR PERSONAL OR PROPERTY DAMAGE ARISING OUT OF OR IN CONNECTION WITH LICENSOR'S PERFORMANCE HEREUNDER OR THE USE, MISUSE, OR INABILITY TO USE THE GETINGE SOFTWARE, UPGRADES, CORRECTIONS, DOCUMENTATION OR THE SERVICES OR THE LICENSE GRANTED HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE, EVEN IF LICENSOR HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES. LICENSOR AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE GETINGE SOFTWARE AND/OR THIRD-PARTY SOFTWARE LICENSED HEREUNDER.

b) *Amount of Damages*. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE MAXIMUM AGGREGATE LIABILITY OF LICENSOR ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT OR THE SOFTWARE, UPGRADES, CORRECTIONS, DOCUMENTATION OR THE SERVICES OR THE LICENSE GRANTED HEREUNDER WILL NOT EXCEED THE FEES PAID BY CUSTOMER TO LICENSOR DURING THE TWELVE (12) MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY.

c) NOTHING IN THIS AGREEMENT WILL LIMIT OR EXCLUDE LICENSOR'S LIABILITY FOR GROSS NEGLIGENCE, FRAUD OR INTENTIONAL MISCONDUCT OF LICENSOR OR ITS EMPLOYEES OR AGENTS OR FOR ANY OTHER LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED BY LAW.

d) *Basis of the Bargain*. The parties agree that the limitations of liability set forth in this Section 9 will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the Fees have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

22) <u>Governing Law</u>. These Terms and Conditions shall be governed by the laws of the State of New York, United States, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

23) <u>Arbitration</u>. Getinge and Customer agree that all disputes arising out of these Terms and Conditions will be resolved by a single binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and will be conducted exclusively in New York and governed by New York laws.