

FLO® PERFORMANCE WARRANTY

TERMS AND CONDITIONS

The FLO Performance warranty (“**FLO Performance**”) is a subscription-based service and warranty plan designed specifically for your Charging Station (as defined below). For more information about FLO Performance, please visit: <http://www.flo.com/performance-warranty/>. These FLO Performance Terms and Conditions (“**Terms**”) are incorporated by reference to each FLO Performance Service Order (“**S/O**”) entered into by the party specified in the S/O (“**Customer**” or “**you**”) and FLO Services USA Inc., a Delaware corporation d/b/a FLO Charging Solutions USA Inc. in the State of California (“**FLO**”). By executing and submitting an S/O, you acknowledge and agree that each S/O, upon acceptance in writing by FLO, shall be subject to these Terms. If you enter into the Agreement (defined below) on behalf of an organization which is a Customer, you represent and warrant that you have the authority to agree to these Terms on the organization’s behalf. If you do not agree to all these Terms, you must not use any of the Services (defined below). These Terms, any applicable S/O together with any exhibits, schedules or addenda which may be expressly referenced herein or attached hereto are collectively referred to herein as the “**Agreement**.” Each of Customer and FLO are referred to herein as “**Party**” and collectively, as the “**Parties**”. These Terms do not alter in any way the terms or conditions of any other agreement you may have with FLO for products, services or otherwise (collectively, “**Additional Terms**”).

1) DEFINITIONS.

- a) “**Affiliates**” mean any corporation or legal entity which is controlled by, controls, or is under common control of a Party. For this purpose, the meaning of the word “control” shall include, without limitation, direct or indirect ownership of more than fifty percent (50%) of the voting shares of such corporation or legal entity.
 - b) “**Charging Station**” means any commercial electric vehicle charging station manufactured by FLO or any of its Affiliates that is compatible with and connected to the FLO Network and provides charging services pursuant to a Connectivity Plan.
 - c) “**Commissioning Date**” means the date on which your Charging Station is installed and has undergone all required testing to confirm that your Charging Station is operating normally and is connected to the FLO Network.
 - d) “**Connectivity Plan**” means FLO’s global management services plan for managing Charging Station billing and data collection or any other similar connectivity plan offered by FLO from time to time.
 - e) “**FLO Network**” means a network of Charging Stations across North America operated and managed by FLO and its Affiliates.
 - f) “**Force Majeure**” means any act, occurrence or omission (or other event) which is unforeseeable or beyond the reasonable control of FLO, including, but not limited to: fires, explosions, accidents, strikes, lockouts, or labor disturbance; any act of God, including, without limitation, earthquake, volcanic eruption, landslide, flood, hurricane, cyclone, tornado or other catastrophic natural disaster, public health crisis, disease outbreak, epidemic, or pandemic, including the Coronavirus COVID-19 pandemic; war (whether or not declared), act of terrorism, sabotage, civil disturbances, riot, revolution, or insurrection; action of any government, legislature, court or other governmental authority, action by any authority, representative or organization exercising or claiming to exercise powers of a government or governmental authority; compliance with applicable laws, rules, mandates, quarantines, orders and regulations; supply chain failures, including, without limitation, blockades, seizure of cargo, power failures or curtailments, inadequacy, shortages or cessation of supplies of fuel, power, raw materials, containers, transportation, labor or other supplies, failure or breakdown of equipment of facilities; the invocation of Force Majeure by any party to an agreement under which FLO’s operations are affected; failure or interruption of telecommunication or digital transmission links, Internet slow-downs or failures, or other such transmission failures; failure or interruption of the wire system or other failure or interruption of the banking or payments processing system; or any other event beyond the reasonable control of FLO whether or not similar to the events or occurrences enumerated above.
 - g) “**Product Specifications**” means the product specifications applicable to your Charging Station, including the installation guide, any applicable technical specifications, and any other documentation provided when you purchased your Charging Station or any service communications issued after such time.
 - h) “**Services**” means the FLO Performance warranty services set forth in Section 4, which are provided by FLO pursuant to your S/O and these Terms.
 - i) “**Service Term**” means the service term for the Services as forth in the applicable S/O.
- 2) **SERVICE ORDERS.** S/Os will be initiated by Customer issuing a written or electronic S/O to FLO. S/Os shall identify the applicable prices, applicable Service Term, and such other information as FLO may require or request. The subject S/O shall become legally binding only upon FLO’s written acceptance of the S/O. FLO reserves the right to reject an S/O based on these Terms or other reasonable grounds. FLO’s acceptance of any S/O is conditioned on the express understanding and Customer’s agreement that the Agreement sets forth the only terms and conditions applicable to Customer’s FLO Performance subscription. To the extent that any conflict or discrepancy exists between these Terms and those terms and conditions set forth elsewhere in the Agreement (including the S/O), these Terms shall control. Any additional or different terms proposed by Customer in any purchase/service order or other document are hereby deemed to be material alterations and notice of objection to them is hereby given. Any such proposed terms shall be void and the terms herein shall constitute the complete and exclusive statement of the terms and conditions of the contract between the Parties. Neither FLO’s acknowledgment of a separate service order nor FLO’s failure to object to conflicting, different, or additional terms and conditions in a purchase order shall be deemed an acceptance of such terms and conditions or a waiver of the provisions herein. FLO may subcontract any of the Services to any third party.

3) FEES AND PAYMENT TERMS.

- a) Fees for the Services are determined by FLO in its sole discretion based on the applicable Service Term and/or other factors. The fees payable by

Customer for use of the Services shall be set forth in each applicable S/O.

- b) Except as set forth in the applicable S/O or otherwise agreed to in writing by FLO, Customer shall pay all FLO invoices in U.S. Dollars within thirty (30) calendar days of the invoice date by wire transfer to FLO's designated bank account or by other means approved by FLO. All payments must be made by Customer in full without deduction (e.g., wire transfer fees, bank handling charges, etc.). Without limiting any remedies available to FLO, FLO may suspend the Services until full payment of all amounts due.
 - c) Unless otherwise agreed to in writing by FLO, all prices quoted are exclusive of any federal, state, municipal or other governmental taxes, duties, excise taxes or tariffs, and other charges applicable to the Services. Customer agrees to pay all such charges unless Customer has delivered an exemption certificate acceptable to FLO and the applicable government authorities. If applicable, such charges shall appear as a separate item on the applicable invoice. Customer shall be liable for, and shall indemnify and hold FLO harmless from and against, the payment of all taxes arising in relation to the Services, whether such taxes are imposed directly on Customer or Seller has the obligation to collect such taxes.
 - d) Any payment received from Customer may be applied by FLO, at its discretion, against any obligation owing by Customer to FLO under the Agreement or any other contract, regardless of any statement appearing on or referring to such payment, without discharging Customer's liability for any additional amounts owing by Customer to FLO.
 - e) The acceptance by FLO of such payment will not constitute a waiver of FLO's right to pursue the collection of any remaining balance. If Customer fails to make payment when due, without prejudice to any other right or remedy, (a) overdue sums will bear interest to date of payment at the annual rate of 1.5% per month (18% per annum) or the maximum rate permitted by applicable law; and (b) FLO will be entitled to reimbursement for all costs of collection, including, without limitation, court costs and reasonable legal fees and experts' costs arising out from any actions or claims hereunder.
 - f) Unless expressly set forth in these Terms or otherwise agreed to in writing by FLO, all fees paid by Customer for the Services are non-refundable.
- 4) **SERVICES.** Subject to the terms, conditions and restrictions set forth in the Agreement, FLO shall provide you the following Services during the Service Term:
- a) **Parts Coverage.** FLO shall cover all costs for parts and parts transportation incurred to repair or replace, in FLO's sole discretion, any Charging Station or part thereof that contains a defect in materials or workmanship or that do not function according to their Product Specifications.
 - b) **Labor Coverage.** FLO shall cover all labor costs incurred to repair or replace any Charging Station or part thereof pursuant to Section 4(a).
 - c) **Vandalism.** FLO shall cover all labor costs incurred to repair or replace, in FLO's sole discretion, any Charging Station or part thereof that contains a defect caused by vandalism or an automobile accident that prevents your Charging Station from functioning according to its Product Specifications. For greater certainty, FLO shall have no obligation to cover the costs for parts and parts transportation incurred to repair or replace your Charging Station or part thereof pursuant to this Section 4(c).
 - d) **Travel Costs.** FLO shall cover two (2) hours of technician travel time to and from your Charging Station per claim and FLO shall bill you excess travel time at FLO's then-current service rate.
 - e) **Preventative Maintenance (exclusive to DCFC (Level 3) Charging Stations).** FLO shall perform one (1) preventative maintenance visit every twelve (12) months during the Service Term (during normal business hours and upon a time and date to be agreed to with the Customer) and shall cover all costs for parts, transportation, and labor incurred to repair or replace, in FLO's sole discretion, any Charging Station or part thereof that contains a defect in materials or workmanship or that do not function according to their Product Specifications.
 - f) **Rapid Response Time and Onsite Intervention.**
 - i) FLO shall alert you no later than one (1) business day from the date FLO becomes aware of an issue with your Charging Station and shall respond to you within the same timeframe if you bring an issue with your Charging Station to FLO's attention.
 - ii) FLO shall ensure onsite intervention begins no later than one (1) business day from the date on which all parts required to repair your Charging Station are delivered onsite or to FLO's subcontracted third-party, as applicable.
 - g) **Uptime Guarantee and Charging Station Reporting.**
 - i) FLO shall guarantee 98% annual uptime, calculated on a per charging port basis in accordance with FLO's standard uptime measurement (for more information about uptime and how FLO measures it, please visit: <http://flo.com/flo-charging-station-uptime/>).
 - ii) In the event of charging port outage time in excess of 2% annually, FLO shall credit the Customer's account with an amount equal to 50% of the share of the annual Services fees associated with the applicable charging port. FLO shall apply the account credit at the end of the Service Term as an aggregate credit representing the sum of annual credits accrued during the Service Term.
 - iii) FLO shall provide you a detailed quarterly usage and performance metrics report for your Charging Station.
- 5) **PROVISION OF SERVICES.**
- a) FLO will use its commercially reasonable efforts to make the Services available for Customer during the applicable Service Term, but it may be interrupted, limited or curtailed due to maintenance and repair work, transmission or equipment limitations/failures, labor or parts shortages, carrier delays or unavailability, an emergency or other reasons beyond FLO's reasonable control. In addition, the provision of all Services shall be subject to Service Exclusions set out in Section 6 of these Terms.

- b) FLO may suspend Customer's access to the Services temporarily, or temporarily restrict any use thereof, in whole or in part, if (i) Customer is in breach of the terms and conditions of the Agreement, (ii) in FLO's sole judgment, there is a security risk that may interfere with the continued provision of the Services, (iii) FLO suspects that you are engaging in illegal activities, or (iv) Customer acts or knowingly permits others to act in any way that interferes with the continued provision of the Services or operation of the FLO Network. Under no circumstances shall FLO be liable to Customer for any damages incurred by you or a third party as a result of suspension of, or omission of suspension, of the Services.

6) SERVICES EXCLUSIONS.

- a) FLO shall have no obligation to provide the Services following the expiration or termination of the Service Term or, during the Service Term, to any Customer who (i) is in breach of any of the terms and conditions of the Agreement; (ii) is not subscribed to and in good standing under a Connectivity Plan; (iii) did not use FLO or a licensed electrician to install its Charging Station; or (iv) uses a party other than FLO or an authorized service provider to repair or replace its Charging Station.
- b) Except as expressly described in the scope of the Services above or as agreed to in writing by FLO pursuant to Additional Terms, FLO shall have no obligation to provide any other services to the Customer, including, without limitation, services to any third party, services in connection with any third-party products (including cellular, communication, or other devices installed by third-parties on or in connection with the Charging Station), services for Charging Stations not connected to the FLO Network, and services in connection with any related electrical wiring, building or energy management systems or other infrastructure.
- c) Notwithstanding Section 4, and without limiting the generality of Section 6(b), FLO shall have no obligation toward the Customer with respect to any warranty claims related to the following:
 - i) Defects in the Customer's electrical infrastructure.
 - ii) Cosmetic damage such as scratches and dents.
 - iii) Normal wear and tear, including the fading of colors due to exposure to the elements.
 - iv) Any parts or labor not supplied by FLO or an authorized service provider.
 - v) Vehicle-to-Charging Station interoperability or communication.
 - vi) Defects in the Charging Station or any part thereof that result from (A) faulty installation, disassembly, repair, alteration, or relocation of the Charging Station by any party other than FLO or an authorized service provider; (B) defects in power supply (including, but not limited to, an extreme power surge and a sudden drop in voltage), extreme electromagnetic field, or any other acts of nature; (C) testing the Charging Station on non-commercially available vehicles; (D) use of the Charging Station other than in accordance with the Product Specifications; (E) the Customer's negligence, willful misconduct, or breach of any terms and conditions of the Agreement.

- 7) **FURTHER COSTS.** If your Charging Station requires more than one (1) preventative maintenance visit per twelve (12) month period, or if your warranty claim is denied or FLO agrees to perform services other than the Services, FLO shall quote you all applicable costs, including the cost of all parts, transportation, travel, labor and other reasonable expenses that FLO would incur to service, repair or replace your Charging Station or any part thereof, at FLO's then-current service rates. In such event, FLO shall only service, repair, or replace your Charging Station or any part thereof upon your approval in writing of the quoted service rate and costs.

8) CUSTOMER OBLIGATIONS. During the Service Term, the Customer shall:

- a) Provide FLO or its designee access to the Charging Station and any Customer personnel that is necessary for the performance by FLO of its obligations under these Terms. If the Customer is not the owner of the site in which the Charging Station is located, the Customer shall be responsible for obtaining all permissions from the site owner that are necessary for FLO to perform its obligations under these Terms.
- b) Maintain a separately purchased Connectivity Plan during the Service Term to permit FLO to access and monitor your Charging Station remotely.
- c) Keep the area in which your Charging Station is located in a state of good repair and in a clean and safe condition, to at least the same standard as you customarily use to maintain the remainder of your premises.
- d) Promptly notify FLO of any apparent or suspected defect with your Charging Station.
- e) Promptly notify FLO if the Customer sells the Charging Station or the property to which the Charging Station is affixed.
- f) Not relocate the Charging Station after its initial installation.
- g) Not use any party other than FLO or an authorized service provider to repair or replace its Charging Station.

- 9) **CONTACT INFORMATION.** If at any time during the Service Term you believe your Charging Station is defective, please contact FLO's dedicated support line at performance@flo.com or at 1-888-551-0959. To facilitate FLO's interaction with you, please notify FLO of any changes to the dedicated Customer contact person for matters related to your Charging Station.

- 10) **SERVICE TERM.** Your Service Term will (i) commence on the first day of the month immediately following the Commissioning Date of your Charging Station, (ii) be of the period set forth in the applicable S/O, and (iii) automatically renew for successive one-year periods at then-current fees unless either Party provides the other Party written notice of termination at least ninety (90) days before the end of your Service Term or any subsequent renewal period. Notwithstanding romanette (i) of the foregoing sentence, FLO shall provide you the Services as of the Commissioning Date of your Charging Station at no extra charge.

- 11) **TERMINATION.** The Agreement (including the applicable S/O) shall terminate in the following circumstances: (a) automatically upon the expiration of the applicable Service Term or any subsequent renewal period if either Party provided the other Party written notice of termination at least ninety (90) days before the end of the Service Term or any subsequent renewal period, (b) automatically upon the date of any sale or other transaction that transfers the ownership of the Charging Station or the property to which the Charging Station is affixed, (c) immediately upon written notice of termination by FLO to the Customer relating to any breach by the Customer of any of the terms and conditions of the Agreement, (d) thirty (30) days after written notice of termination by the Customer to FLO for any reason, and (e) immediately upon written notice by either Party if the other Party files a petition in bankruptcy or is adjudicated bankrupt or insolvent, or makes an assignment for the benefit of creditors, or an arrangement pursuant to any bankruptcy law, or discontinues or dissolves its business, or if a receiver is appointed for such Party or for such Party's business and such event is not discharged within thirty (30) calendar days. Upon termination of the Agreement by the Customer pursuant to subsection (b) or (d), FLO shall refund the fees paid by Customer for the Services pro-rated to the number of days remaining in the Service Term on the effective date of termination, minus a 10% termination fee. The expiration or termination of the Agreement for any reason shall not release either Party from any liability which, at the time of such termination, has already accrued to the other Party or which is attributable to a period prior to such termination nor preclude either Party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of the Agreement. Upon expiration or termination of the Agreement, FLO may terminate the applicable Services. The Parties' obligations under the Agreement, which by their nature would continue beyond the termination of the Agreement, shall survive the termination of the Agreement. Specifically, but without limiting the generality of the foregoing, the following Sections of the Agreement shall survive any termination of the Agreement: Sections 11 (Effect of Termination); 14 (Limitation of Liability/Indemnification); 15 (Governing Law/Arbitration); 16 (Force Majeure); and applicable provisions in 19 (Miscellaneous).
- 12) **REPLACEMENT CHARGING STATION AND PARTS.** A Charging Station or part replaced pursuant to these Terms may be a remanufactured or reconditioned Charging Station or part or, if the exact Charging Station is no longer manufactured by FLO, a Charging Station with substantially similar specifications. All replacement Charging Stations or parts will become your property and all Charging Stations or parts replaced pursuant to these Terms will become the property of FLO. FLO shall provide you the Services with respect to any replacement Charging Station or part for the balance the Service Term.
- 13) **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE WHICH ARE EXPRESSLY DISCLAIMED. CUSTOMER ASSUMES ALL RESPONSIBILITY AND RISK FOR USE OF THE SERVICES. FLO DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON FLO'S BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT. NEITHER FLO NOR FLO'S OFFICERS, DIRECTORS, EMPLOYEES, MANAGERS, AGENTS, DEALERS, SUPPLIERS OR AFFILIATES WARRANT THAT THE INFORMATION, PRODUCTS, PROCESSES, AND/OR SERVICES AVAILABLE THROUGH THE SERVICES WILL BE UNINTERRUPTED, ALWAYS AVAILABLE, SECURE, ACCURATE, COMPLETE, USEFUL, FUNCTIONAL OR ERROR FREE.
- 14) **LIMITATION OF LIABILITY AND INDEMNIFICATION.**
- a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL FLO OR ANY OF ITS AFFILIATES BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR DAMAGES ARISING FROM THE USE OF THE SERVICES, INCLUDING, WITHOUT LIMITATION, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS OF PRIVACY OR SECURITY DAMAGES, PERSONAL INJURY OR PROPERTY DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM THE SERVICES, INTERRUPTION OR FAILURE OF THE SERVICES, LOST PROFITS, LOSS OF BUSINESS, LOSS OF DATA, LOSS DUE TO UNAUTHORIZED ACCESS OR DUE TO VIRUSES OR OTHER HARMFUL COMPONENTS, COST OF REPLACEMENT PRODUCTS AND SERVICES, THE INABILITY TO USE THE SERVICES, THE CONTENT OF ANY DATA TRANSMISSION, COMMUNICATION OR MESSAGE TRANSMITTED TO OR RECEIVED BY CUSTOMER, THE INTERCEPTION OR LOSS OF ANY DATA OR TRANSMISSION, OR LOSSES RESULTING FROM ANY GOODS OR SERVICES PURCHASED OR MESSAGES OR DATA RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICES. IN NO EVENT SHALL FLO'S AGGREGATE LIABILITY UNDER THE AGREEMENT TO THE CUSTOMER OR ANY THIRD PARTY, WHETHER IN CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY, OR FRAUD), STATUTORY VIOLATION (INCLUDING, BUT NOT LIMITED TO, UNFAIR BUSINESS PRACTICES) OR ANY OTHER LEGAL THEORY, EXCEED THE FEES PAID BY CUSTOMER TO FLO PURSUANT TO THE AGREEMENT. THE LIMITATIONS IN THIS SECTIONS APPLY EVEN IF A PARTY HAS BEEN ADVISED BEFOREHAND OF THE POSSIBILITY OF SUCH DAMAGES OR OF A CLAIM ANY THIRD PARTY MAY MAKE, AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.
- b) To the maximum extent permitted by applicable law, Customer agrees to indemnify and hold FLO, its Affiliates, and their respective officers, directors, employees and agents, harmless against any claims, demands, actions, liabilities, costs or damages brought by any third-party (including, but not limited to, any owner of an electric vehicle who uses a Charging Station owned by Customer), whether brought under theories of tort (including, but not limited to, negligence, strict liability, or fraud), breach of contract, breach of warranty, statutory violation (including, but not limited to, consumer fraud), or any other legal theory arising out of Customer's use of the Services, violation of the Agreement, negligence, fraud, or other intentional misconduct on the part of Customer. Customer furthermore agrees to pay court costs and FLO's reasonable legal fees arising out from any actions or claims hereunder.
- 15) **GOVERNING LAWS AND ARBITRATION.** Where the Customer is located in the United States (as evidenced by the Customer's address in the S/O or, if this address is unavailable, by other reasonable indication that the Customer is located in the United States, as determined by the tribunal once constituted), these Terms are governed by and construed exclusively in accordance with the laws of the State of New York, without giving effect to the conflict of laws principles applicable therein, and any controversy or claim arising out of or relating to these Terms that is not resolved by negotiation, including with respect to the validity, existence or the breach hereof, shall be determined exclusively by final and binding confidential arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. The number of arbitrators will be one, the place of arbitration will be New York, New York, and the language of the arbitration will be English. Except as may be required by law, neither Party nor its representatives may disclose the existence, content or results of any arbitration related to these Terms, including the content of

any documents exchanged within the arbitration proceedings, without the prior written consent of the other Party. Customer agrees to submit to the personal jurisdiction of the federal or state courts located there in order to compel arbitration, stay proceedings pending arbitration, or confirm, modify, vacate or enter judgment on the award entered by the arbitrator. Any action that is not subject to arbitration will be filed, and that venue properly lies, only in the state or federal courts located in New York, New York, USA, and Customer consents and submits to the personal jurisdiction of such courts for the purposes of litigating such action. Proceedings to resolve or litigate a dispute in any forum will be conducted on an individual basis. **The Parties hereby irrevocably waive their rights to a jury trial of any dispute arising out of these Terms, and Customer shall not seek to have a dispute heard as a class action, private attorney general action, or in any other proceeding in which Customer acts or proposes to act in a representative capacity.** No arbitration or proceeding can be combined with another without the prior written consent of all parties to the arbitration or proceeding. If the class action waiver is found to be illegal or unenforceable as to all or some parts of a dispute, those parts will be severed and proceed in a court of law, with the remaining parts proceeding in arbitration.

16) **FORCE MAJEURE.**

- a) **Effect of Force Majeure.** FLO shall not be liable for any loss or damage that arises directly or indirectly through or as a result of any delay in the fulfillment of or failure to fulfil its obligations in whole or in part under the Agreement where the delay or failure is due to Force Majeure. FLO's obligations affected by the event of Force Majeure shall be suspended, to the extent that those obligations are affected by the event of Force Majeure, from the date FLO first gives notice in respect of that event of Force Majeure until cessation of that event of Force Majeure (or the consequences thereof).
- b) **Notices.** Upon the occurrence of an event of Force Majeure, FLO shall promptly give notice to the Customer (but in no event more than thirty (30) days from the subject Force Majeure event) setting forth the details of the event of Force Majeure and an estimate of the likely duration of FLO's inability to fulfil its obligations under the Agreement. FLO shall use commercially reasonable efforts to remove the said cause or causes and to resume compliance with its obligations under the Agreement provided that FLO shall not be required to settle any strike, lockout or labor dispute on terms not acceptable to it. When the said cause or causes have ceased to exist, FLO shall promptly give notice to the Customer that such cause or causes have ceased to exist.
- c) **Termination.** If an event of Force Majeure shall continue for more than six (6) consecutive calendar months, then either Party shall have the right to terminate the Agreement.

17) **ASSIGNMENT.** The Customer may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of FLO. FLO may assign or otherwise transfer its rights and obligations under these Terms without the Customer's consent.

18) **SEVERABILITY.** The invalidity, illegality or unenforceability of any provision of these Terms or this Agreement under applicable law shall not affect the validity, illegality, or enforceability, or otherwise impair, any other provision of these Terms or this Agreement, all of which shall remain in full force and effect. In the event any provision of these Terms or this Agreement is invalid, illegal, or unenforceable under applicable law, the Parties shall use their respective best endeavors to negotiate and agree upon a substitute provision which is valid, legal, and enforceable and achieves to the greatest extent possible the economic, legal, and commercial objectives of such invalid, illegal, or unenforceable provision.

19) **MISCELLANEOUS.** No conditions other than those set forth herein shall be binding on the Parties hereto unless specifically agreed to in writing by the Parties. The Agreement shall not confer any benefit to a third party. The Agreement (including the S/O, these Terms and any Additional Terms) constitute the entire and exclusive agreement between the Parties with respect to the subject matter hereof, and supersedes and replaces any other agreements, terms and conditions applicable to the subject matter hereof. Either Party may grant approvals, permissions, extensions and consents by email, but except as expressly set forth in the Agreement, any modifications to the Agreement must be made in a writing executed by both Parties. Any notices to the Parties shall be sent to the attention of the Parties' respective primary contacts identified in the S/O by registered mail or email with delivery confirmation. A waiver of any default is not a waiver of any subsequent default. Unenforceable provisions will be modified to reflect the Parties' intention and only to the extent necessary to make them enforceable, and remaining provisions of the Agreement will remain in full effect. The Agreement will be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns. Each Party is and for all purposes shall be deemed to be an independent contractor with respect to the performance of its obligations and duties under the Agreement. Nothing in the Agreement shall constitute or create a joint venture, partnership, agency or any other similar arrangement between the Parties whatsoever. No Party shall have the authority to assume or create obligations on behalf of the other Party, and neither Party shall take any action that has the effect of creating the appearance of its having such authority. The Agreement shall not be deemed to constitute either Party to be the agent of the other Party.