

Tyler County's Proposed Contract Changes.

8. Warranties and Disclaimers.

(a) Each party warrants that it has full authority to enter into this Agreement and is not bound by any contractual or legal restrictions from fulfilling its obligations hereunder **except as prohibited by state law. Nothing in this or any other document and/or communication is meant to be or should be construed as a waiver of Tyler County's sovereign immunity or the official, judicial, qualified, prosecutorial, and/or legislative immunity of any Tyler County employee, elected official, agent, and/or official. Tyler County and its employees, elected officials, agents, or officials specifically preserve and do not waive any and all privileges and/or immunities to which they are entitled.**

(b) 1200.aero warrants that the Service will substantially conform to the description provided in connection with the Service. ~~Client's sole and exclusive remedy for breach of this warranty is for 1200.aero to use commercially reasonable efforts to cause the Service to conform.~~

9. Liability; Insurance

(a) Client agrees that the aggregate liability of 1200.aero and its suppliers relating to this Agreement and the Service shall be limited to the amount of fees actually received by 1200.aero from Client under this Agreement during the one-year period immediately preceding the event which gave rise to the claims. In no event shall either party be liable for any special, incidental, indirect, cover, consequential, exemplary or punitive damages; any damages based on injury to person or property or death; or any lost sales, profits or data, even if such party is told that any of such damages may occur.

(b) Each party shall maintain commercially reasonable insurance, **or an equivalent thereto**, to protect against claims and risks relating to this Agreement.

10. Other Provisions

(a) Neither party may assign or transfer this Agreement without the prior written consent of the other party, except that such consent shall not be necessary in connection with the sale of all or substantially all of such party's business or portion of such party's business to which this Agreement relates, so long as such acquirer is not a competitor of the other party. Any permitted assignee must agree in writing to the terms of this Agreement.

(b) ~~The parties are independent contractors, and~~ Nothing in this Agreement shall be construed as creating a joint venture, partnership, agent or employment relationship between 1200.aero and Client.

(e) Choice of Law and Arbitration.

(i) This Agreement shall be governed by and interpreted in accordance with the laws of the state of ~~North Carolina~~ Texas, and venue for any dispute shall be in the United States District Court for the Eastern District of Texas, Lufkin Division. ~~without giving effect to its conflict of law~~

~~provisions.~~ The parties agree that the United Nations Convention on Contracts for the International Sales of Goods does not apply to this Agreement.

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~~(iii) All Disputes that cannot be resolved through good faith negotiation will be settled by binding arbitration. Judgment on any award rendered may be entered in any court having competent jurisdiction. The arbitration hearing will be conducted in accordance with the then-current rules of the American Arbitration Association. The site of the Arbitration will be Raleigh, NC, USA. The arbitration panel shall consist of one arbitrator. Notwithstanding the foregoing, either party may pursue injunctive relief to protect its intellectual property rights and confidential information.~~