

SOILMEC DMS MANAGER 4.0: GENERAL TERMS AND CONDITIONS

These general terms and conditions (the “General Terms and Conditions”) shall regulate the services relating to or in connection with the DMS Manager 4.0, delivered to customers (the “Customer”) as specified in an offer issued by Soilmec S.p.A. or by any of its authorized agent or dealer (the “Provider”).

Soilmec machines are designed to be remotely monitored using a telediagnosis system called “*Drilling Mate System*” (the “DMS”).

The DMS product suite includes built-in instrumentation that detects machine performance indicators (“DMS On-board”), licensed software that processes production data acquired by the DMS On-board (“DMS PC”), and a web platform for remote fleet supervision enabling real-time monitoring of geographic location, events, anomalies, operational, production and service data (“DMS Manager”).

DMS Manager 4.0 is a *Cloud* based application powered by *IoT (Internet of Things)* technology enabling management of the machine fleet in real time:

- the DMS system ensures functional monitoring of the equipment by transmitting performance alerts to Provider’s DMS Manager control center identifying machine failures and reporting asset downtime. The same alerts received by the DMS Manager appear simultaneously on the DMS On-board monitor in the operator cabin;
- the aforementioned remote surveillance system allows Provider to easily search, identify and repair machine malfunctions and recover equipment breakdowns based on the transmitted alarm reports providing timely and efficient after-sales service to the Customer;
- Soilmec S.p.A. is the sole owner of the DMS system, including software, processing applications and elaboration procedures, programs, processors, devices (except hardware products purchased by Customer) and, more generally, know-how that allows detecting and processing machine *performance* data and functional monitoring of the equipment based on the alerts transmitted to Provider’s DMS Manager control center (“Technology”), along with the telematics services provided through the DMS Manager 4.0 web platform (“Services”) and shall be entitled to grant the rights to access to and use the Technology and Services;
- Customer intends to use the DMS Manager 4.0 web application, along with the Services provided through this application, for monitoring of the drilling parameters acquired by the DMS On-board system installed on the equipment owned by the Customer.

1. CONTRACT DOCUMENTS

The entire agreement between Customer and Provider (the “Agreement”) consists of the following documents:

- the Offer and its annexes;
- the Terms and Conditions of Sale;
- this General Terms and Conditions.

In the event of conflict between the aforementioned documents the documents higher in the list above shall supersede those lower in the list.

2. SERVICES

(a) Services. Soilmec grants to the Customer, during the term of this Agreement, a non-exclusive and non-transferable right to access and use the DMS Manager 4.0 web platform and the Telematics Services, described below, exclusively for remote monitoring of the machine functionality in compliance with the terms and conditions of this Agreement. Any rights not expressly granted to Customer by this Agreement are expressly reserved to Provider.

The Services offered to Customer through the use of the DMS Manager 4.0 web platform are those indicated below:

Main features:

- GPS logging

- actual time machine alarm and event monitoring, data storage for statistical analysis
- production data and consumption control in real time
- technology-specific machine and production parameters
- operating times recording (rig positioning, drilling and concreting time counter, downtime and production stops), pie charts data visual representation
- machine on/off counter and workload monitoring (rotary pressure, diesel level, etc.)
- downtime tracking
- machine diary and service information archiving for future planning
- customized and easily designed dashboards
- connection to any device over a web browser
- mobile interface (iOS & Android)

Options:

- ✓ remote view
- ✓ email notifications
- ✓ analytics & KPIs
- ✓ scheduled maintenance
- ✓ pile planning
- ✓ drilling reports
- ✓ production data export

These Services are delivered by Provider in *cloud computing* mode ("*SaaS: software as a service*") by means of the DMS Manager 4.0 application and are supported by management and configuration tools.

The Services described herein are intended as standard services currently available through the DSM Manager 4.0 web application and depend on selected subscription plan. Any tailored services can be offered by Provider, upon the Customer's request, against payment of an additional fee compared to what is determined according to the following art. 6, which will be agreed from time to time between the Parties considering the type of service and the level of customization requested by the Customer. In any case, it is understood that, except as otherwise provided herein, the personalized services will be governed by the terms and conditions of the Agreement.

SIM-Cards: Soilmec will provide the Customer with SIM-card(s) for each DMS On-board unit that the Customer is licensed to use in connection with the DMS Services, which the Customer shall use solely (I) in combination with the DMS On-board units and (II) for transmitting Machine Data between the Fleet and the Soilmec DMS Manager 4.0 Platform. The ownership of SIM-Card(s) provided by Soilmec is retained by Soilmec and the Customer must return or destroy such SIM-Card(s) upon expiry or termination of the Agreement.

3. USE OF THE SERVICES

Customer will make all utmost efforts to prevent unauthorized access or use of the Services and shall be liable for use of the Services by all users which have access to or use of the Services and shall immediately inform Provider of any unauthorized unlawful, obscene, offensive or fraudulent access or use. By way of example, Customer shall not, and shall not allow anyone to:

- (i) provide, grant the right to access and/or use the Services to parties other than the Authorized User, process or allow the processing of data from any third party that is not expressly authorized to access and use the Services;
- (ii) (re) sell, grant rights to, and/or use the Services for uses other than those permitted and regulated pursuant to the Agreement;
- (iii) store or transmit unauthorized, defamatory, offensive or otherwise illegal or harmful materials, or to store or transmit any material in violation of the rights for the protection of personal data or use the Services in an unlawful manner;

- (iv) damage or alter the integrity or functionality of the Services or the data contained therein;
- (v) copy, in whole or in part, the DMS system, its features and/or its functionalities and, in whole or in part, the Soilmec Technology;
- (vi) modify, adapt, alter, decode, decompile, disassemble, destroy, create a work or improvements arising from, or otherwise attempt to derive the source code, of any part of the DMS system, of any feature and/or functionality as well as the Soilmec Technology;
- (vii) sell, transfer, distribute, assign or otherwise make available, grant any license and/or any other rights, to any part of the DMS system and/or Soilmec technology to third parties;
- (viii) remove, delete, modify or otherwise alter any form of security and protection present in the DMS system, the Soilmec Technology and/or the Services offered by Provider, or even attempt to do so;
- (ix) use the DMS system, Soilmec Technology and/or Services offered by Provider with fraudulent means or by any device that in any way violates Provider's intellectual and industrial property rights or any other rights of third parties, or provisions of applicable laws and regulations;
- (x) use the DMS system, the Soilmec Technology and/or use the Services for uses other than those permitted and governed by this Agreement.

Soilmec undertakes to make the Services available in accordance with the provisions of the Agreement. Provider may modify or update the Services (for example, infrastructure, security, technical configuration, application features, etc.) and reflect changes in technology, industry standards and/or usage patterns of the system, it being understood and agreed that the modifications made will not substantially reduce the level of *performance*, security or availability of the requested Services. The right to new versions is not included in the Services.

Customer agrees to use the Services in compliance with the provisions of the Agreement and all applicable laws and regulations including those regarding the use of personal data and intellectual and industrial property rights.

CUSTOMER ACKNOWLEDGES TO HAVE RECEIVED FROM PROVIDER ADEQUATE AND COMPLETE INFORMATION ABOUT, AND TO HAVE WELL UNDERSTOOD AND ACCEPTED, THE FEATURES AND THE FUNCTIONAL CAPABILITIES OF THE DMS SYSTEM, AS DESCRIBED UNDER THIS AGREEMENT AND IN THE TECHNICAL SPECIFICATIONS INCLUDED IN THE OFFER, AS WELL AS THE SERVICES DERIVING FROM OR IN ANY CASE CONNECTED TO THE USE OF THE DMS MANAGER 4.0 WEB PLATFORM.

CUSTOMER CONSENTS TO ALL THE FUNCTIONAL CAPABILITIES OF THE DMS SYSTEM AND AUTHORIZES PROVIDER TO DETECT AND ACCESS TO THE MACHINE DATA (DEFINED BELOW) VIA THE DMS SYSTEM FOR THE PURPOSE OF ASSISTANCE AND MONITORING OF THE MACHINE, CARRYING OUT OF THE SERVICES, PREVENTION AND RESOLUTION OF TECHNICAL ISSUES, OR IN CONNECTION WITH RESEARCH, MONITORING AND IMPROVEMENT OF THE MACHINE AND THE SERVICES THEMSELVES.

Pursuant to and for the purposes of these General Terms and Conditions, "**Machine Data**" refers to the technical data collected in relation to the machine, and therefore, including, without limitation:

- (a) equipment use history including fuel usage, number of engine hours, diagnostic data, software and hardware numbers, geolocation and other equipment data,
- (b) and more generally all data and/or information detected by the DMS system enabling equipment diagnostics (the search, troubleshooting and repair of the defects and/or malfunctions, as well as the identification of the faulty or unfit part(s)), along with the data needed for the set up and provision of the Services.

DMS Manager provides a comprehensive maintenance program for eligible drilling equipment. This program and related operational procedures (schedules, controls, checklists, spare parts planning and service log) are based on original factory specifications. The degree of detail included in the Customer's program regarding equipment maintenance will depend on the kinds of tools/machinery used. Some drilling equipment have very specific inspection and maintenance requirements. It is essential that maintenance programs are kept under review and changed if necessary, to meet technology or site-specific requirements. Without such modifications, they may not be appropriate. It is the sole responsibility of the Customer to ensure that maintenance is performed as required and in compliance with the maintenance schedule recommended by the manufacturer in original equipment manual.

For the purpose of these General Terms and Conditions “**Production Data**” refers to the production data of the machine, such as pile data, execution times, productivity, material consumption.

Soilmec acknowledges that the use of the Customer Production Data shall be restricted and requires a prior written authorization by the Customer in order to access such data.

Without prejudice to the above it is understood that Soilmec will manage and use the Machine Data and the Production Data pursuant to the terms of the Agreement for the following business purposes:

- (a) to provide services to Customer;
- (b) to check, maintain, diagnose, update or repair Customer’s equipment;
- (c) to enable Soilmec or a third party to improve or develop Soilmec products, Soilmec services, or components of Soilmec products and services;
- (d) to help Customer manage a fleet;
- (e) to identify new usage types of equipment;
- (f) to comply with or enforce legal or contractual requirements, including disclosure to a court or other governmental body in response to a valid order,
- (g) to offer Customer products or services;
- (h) to comply with a request from Customer;
- (i) to disclose Machine Data to a third party necessary to accomplish (a) through (h).

Provider reserves the right to assign the Services, in whole or in part, to third parties. These third parties may include equipment suppliers, service providers, financing institutions, technical, legal or other professionals who assist Soilmec in its business operations while providing the products and services requested by Customer. In this case, Provider shall be liable towards the Customer for any act or omission of such the third party.

4. SECURITY

Soilmec uses reasonable industry measures to protect the Services and the DMS Manager 4.0 against unauthorized physical access and threats of fire, power, temperature, humidity and other physical forces.

In order to enhance data security, Customer declares and accepts that it will be his duty and responsibility to ensure and maintain adequate technical tools and procedures for the duration of these General Terms and Conditions which shall be necessary or appropriate in order to secure and protect the confidentiality and integrity of its own data as well as the security of its account from any unauthorized accesses and/or not allowed uses of the DMS Manager platform and of the Services.

Provider shall not in any way and in whatsoever manner be liable in the event third parties will gain an unauthorized access to or use of Customer data, including the Machine Data and/or the Production Data.

The use and access to the *web* platform and, therefore, to the Services is granted to Customer as described in the offer.

To enable a secured access to the DMS Manager 4.0 *web* platform and the Services, Provider will assign to Customer, no later than 15 days from the Effective Date, account name(s), *user name(s)* and *password(s)* for each individual user (hereinafter, “**Authorized User**”). For security reasons, Customer must change the issued passwords immediately after having accessed the DMS Manager 4.0 Service for the first time and keep the access data confidential.

Customer is responsible for the identification and authentication of the Authorized User(s), approving the access of such Authorized User(s) to the Services, controlling unauthorized access by the Authorized User(s), keeping confidential all and any data related to *user name(s)* and *password(s)* and ensuring timely and proper removal of user(s) records available in his local infrastructure (intranet) or on his local devices.

The Provider declares and the Customer acknowledges and agrees that in performing Services pursuant to and in accordance with the Agreement personal data of the Customers, including personal data of its Representatives who have access to and use to the Services and the DMS Manager 4.0, shall be treated. The treatment of personal data shall be

carried out, on a hardcopy or electronic archive, by authorized personnel of the Provider and for the sole and exclusive purpose of pursuing Services in accordance with the Agreement and in order to fulfill any obligations connected or related thereto. Furthermore, the treatment of personal data shall be carried out in full compliance with any security laws and regulations and observing all rights the interested party is entitled to.

IN NO EVENT PROVIDER SHALL BE LIABLE FOR ANY DAMAGES CAUSED BY THE AUTHORIZED USER(S), INCLUDING INDIVIDUALS WHO HAVE NOT BEEN AUTHORIZED TO ACCESS THE SERVICES BUT WHO HAVE BEEN ABLE TO LOG IN AS THE USER NAME(S), PASSWORD(S) AND ACCOUNT(S) HAVE NOT BEEN REMOVED IN DUE TIME FROM THE LOCAL INFRASTRUCTURE OR CUSTOMER DEVICES.

Cloud services do not include exporting data hosted at the end of the term of the Agreement.

PROVIDER SHALL NO LIABLE, WHATSOEVER AND UNDER ANY CIRCUMSTANCES, FOR ANY SERVICE DISRUPTIONS ARISING FROM OR IN CONNECTION WITH INTERNET CONNECTION AND CUSTOMER SHALL INDEMNIFY AND HOLD PROVIDER HARMLESS FROM AND AGAINST ANY LOSSES, DAMAGES OR COSTS ARISING FROM OR IN CONNECTION WITH SUCH DISRUPTIONS.

5. SUPPORT

Soilmec will provide support and troubleshooting by phone/email.

Exclusions. Services support does not include: support on Customer's premises; design, software development, break-fixes or testing of integrations, customizations and/or modifications; third party software included in the Services; Customer developed and/or owned applications; errors caused by Customer's negligence or fault; responsibility for changes or replacement of any Customer hardware; consulting or training services.

Soilmec is available to provide, upon Customer's written request, assistance and/or consultancy support necessary for the use of the Services as well as training of the Customer's personnel authorized for using the Services. For the assistance and/or consultancy services carried out by Soilmec in terms of this article, Customer will pay Provider an additional fee.

6. FEES, BILLING AND PAYMENT

(a) Committed Fees. Customer shall pay Soilmec the committed fees due to the Provider for the Services to be carried out in accordance with these General Terms and Conditions shall be specified in the offer. Payment shall be made by way of wire transfer within and not later than thirty (30) calendar days from the invoice, save otherwise agreed between the Parties.

(b) Taxes. Fees do not include sales, use, value added or other excise tax. Customer shall pay or reimburse Soilmec for all such taxes.

(c) Overdue amounts. Soilmec may suspend Customer's access to the Services in the event the Customer is overdue in payments under the Agreement and does not make full payment of the amount owed within fifteen days after notice thereof by Soilmec.

7. TERM

The Agreement shall be valid for a period of twelve (12) months from the "Effective Date", which shall be the date of the acceptance of the offer by the Costumer and shall not be automatically extended or renewed, unless otherwise provided in writing by the parties. It is understood that upon expiration of the Agreement any and all obligations of the parties will cease to exist and be effective, except for the confidentiality obligations pursuant to art. 11 and intellectual and industrial property rights pursuant to art. 10, including any other provisions that expressly or implicitly remain valid even after the expiration of the Agreement.

8. TERMINATION

Termination. Without prejudice to any other remedy provided under these General Terms and Conditions and law, the Parties agree that in case of breach of confidentiality obligations under art. 11, intellectual and industrial property rights pursuant to art. 10, unauthorized use of the DMS system or copyright infringement under art. 3, and/or failure to perform payment obligations set forth under art. 6 of these General Terms and Conditions, the non-breaching party may terminate the Agreement by written notice to the other Party in compliance with the terms set out in art. 13 Notices, in which case the Agreement shall be considered immediately terminated by law.

In case of violation of any other provision of this Agreement other than those mentioned above, the non-breaching party can send a written request to the other party to fulfill its contractual obligations within a period of not less than 15 (fifteen) days, stating that after such deadline the Agreement shall be terminated by law.

Effects. In the event of expiration or termination, for any reason, of the Agreement, the Customer shall immediately cease all rights to access and use the Services made available by the Provider in compliance with the terms and conditions set forth hereunder, and within 10 (ten) calendar days from the date of expiration or termination, the Customer shall promptly return to the Provider all the materials supplied by Soilmec to the Customer hereunder. In such cases, the obligations of the Parties set forth under the Agreement will cease to exist and be effective, except for the confidentiality obligations pursuant to art. 11 and intellectual and industrial property rights pursuant to art. 10, including any other provisions that expressly or implicitly remain valid even after the termination of the Agreement.

9. WARRANTY AND LIABILITY

Warranty. Subject to the limitations and exceptions provided for under these General Terms and Conditions, the Provider shall warrant that the Services and the DMS MANAGER 4.0 web application will comply with all the main operating functions described in the technical specifications attached to the offer. The Provider shall also warrant that the Services and the DMS MANAGER 4.0 web application will be free from errors and faults that can significantly alter the aforementioned operational functions, being however understood that such warranty shall be enforced on condition that the Customer will promptly communicate to the Provider any non-compliance, errors or faults of the Services.

Any minimum discrepancies between the operational functions of the Services and those described in the offer do not constitute errors or defects of the Services. In case of a legitimate complaint by the Customer, the Soilmec's sole obligation shall be timely correction and/or removal of the reported errors and/or defects at the Provider's expenses with the Customer waiving any further remedy.

Warranty Exclusions. The Provider shall not be liable for malfunctions or defects in the Services and/or the DMS Manager 4.0 web application if they are caused, in whole or in part, by an unauthorized conduct of the Customer, by an incorrect use of the DMS system by the Customer or third party that is not allowed by the Provider, by use or access to the Services and/or the DMS Manager 4.0 web platform that do not comply with the technical specifications, by alterations deriving from the performance or non-performance of the Internet service provider or due to actions of third parties that are not assigned by the Provider. Except as provided in this section, the Provider does not issue or grant any further warranty of any nature, express or implied, including without limitation, the warranty related to the integration of the DMS system, accuracy of data, marketability and fitness for a particular purpose, satisfactory quality, title and non-infringement of the rights of others.

THE CUSTOMER ACKNOWLEDGES AND ACCEPTS THE WARRANTY LIMITATIONS AND THE RESPONSIBILITIES ASSUMED BY THE PROVIDER, AND RECOGNIZES THAT NO OTHER WARRANTY IS PROVIDED WITH RESPECT TO THE SERVICES AND/OR THE DMS MANAGER 4.0 WEB PLATFORM OTHER THAN THOSE CONTAINED IN THE AGREEMENT, AND DECLARES NOT TO RELY ON ANY OTHER STATEMENT THAT HAS NOT BEEN EXPRESSLY SET OUT IN THE AGREEMENT.

Force Majeure. Soilmec shall not be in default of its obligations to the extent its performance is delayed or prevented by causes beyond its control.

Limitations of liability. In no case the Provider shall be liable for any damage, loss, burden, cost, expense, etc., direct or indirect, however suffered by the Customer or third parties deriving from or in connection with the use or failure to use the Services and/or the DMS Manager 4.0 web platform, save for and without prejudice to any mandatory provision of the applicable law.

WITHOUT PREJUDICE TO THE ABOVE IT IS UNDERSTOOD THAT SOILMEC'S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS OR LIABILITIES ARISING HEREUNDER OR OUT OF, OR RELATING TO, THE CREATION, LICENSE, SUPPLY, FAILURE TO SUPPLY OR USE OF THE DMS MANAGER 4.0 AND/OR TO THE SERVICES, WHETHER BASED UPON WARRANTY, CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE FEES PAID TO SOILMEC FOR THE SERVICES DURING THE 12 (TWELVE) MONTH PERIOD PRIOR TO THE EVENTS THAT GAVE RISE TO THE APPLICABLE CLAIM.

IN NO EVENT SHALL SOILMEC, ITS SUBSIDIARIES OR AFFILIATES, OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF USE OF DATA AND ANY LOSS CAUSED BY THE INTERRUPTION, TERMINATION OR FAILED OPERATION OF THE INTERNET, THIRD PARTY TELECOMMUNICATION SERVICES OR THIRD PARTY SECURITY FEATURES OR SYSTEMS), EVEN IF SOILMEC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER AGREES NOT TO BRING ANY SUIT OR ACTION AGAINST SOILMEC AND/OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS FOR ANY REASON WHATSOEVER AFTER EXPIRATION OF THE WARRANTY PERIOD.

10. INTELLECTUAL AND INDUSTRIAL PROPERTY

10.1 Provider's intellectual and industrial property rights.

The Customer acknowledges and agrees that all intellectual and industrial property rights in or relating to the DMS system and to the Services are and will remain the exclusive property of the Provider and/or its assignees, as the case may be. Nothing contained herein is intended nor shall be interpreted to transfer any of these rights to the Customer or to third parties.

All rights not expressly granted by the Provider to the Customer pursuant to the Agreement are reserved to the Provider.

Customer acknowledges and accepts that "DMS" and all other designs containing the term "DMS", including all product names and logos related to the Services are trademarks of Soilmec. Likewise, Customer cannot claim rights to such marks under the Agreement.

10.2 Customer's intellectual and industrial property rights. Right of use.

The Provider acknowledges and agrees that all intellectual and industrial property rights related to the Customer data, which includes Machine Data and Production Data, are and will remain the exclusive property of the Customer and/or its assignees, as the case may be. Except for what is necessary or appropriate to enable Provider to carry out the Services in accordance with the Agreement, no provision of the Agreement is intended, nor shall be interpreted to transfer to the Provider or to third parties any of these rights. All rights related to Machine Data and/or to the Production Data which are not expressly granted by the Customer to the Provider pursuant to the Agreement are reserved to the Customer.

Customer authorizes Provider, for the duration of the Agreement, to analyze, review, process, collect and/or however use the Machine data and/or the Production Data, as the case maybe, without any indication of the Customer and/or project name and details, to carry out marketing activities, training, statistical studies, analysis, research and development related to the DMS system and/or Services and/or in order to introduce enhancements to the DMS system and/or the Services, as well as for the purpose of providing the Services and improving them and the machine itself.

The Parties acknowledge that the result of the activities carried out by the Provider deriving directly or indirectly, in whole or in part, using the Machine Data and/or the Production Data is the exclusive property of the Provider, which is the owner of industrial and intellectual property rights, and represents know-how of the Provider, which the same can freely use. The parties acknowledge and represent that this has been taken into consideration in determining fees and relations between the parties.

11. CONFIDENTIALITY

The information that the Parties will reciprocally exchange with each other during the execution of the Agreement shall be deemed confidential and the Parties hereby undertake for the duration of term of the Agreement and after its expiration, withdrawal or termination of the same, for any reason, not to disclose this information to any third party without the prior express consent of the other party.

For the purposes of the Agreement, the term "**Confidential Information**" shall mean: (i) any and all technical information and/or any other information relating to the DMS system, its features and/or functional capabilities, including any data and/or information concerning the Soilmec Technology; (ii) technical and business information as well as any data relating to the Services; (iii) Machine Data, Production Data and any other technical and business information of the Customer, and (iv) any other confidential and/or sensitive information which is disclosed as such in writing and marked as confidential at the time of disclosure; and/or disclosed by in any other manner and identified as confidential at the time of disclosure.

The Agreement imposes no obligation upon the parties with respect to any Confidential Information that (a) is or becomes a matter of public knowledge through no fault of or failure to act by the receiving party inconsistent with its obligations under this Agreement; (b) is rightfully received from a third party who will be not subject to any confidentiality obligation; (c) is or has been independently developed by the receiving party without using or making any reference to the confidential information disclosed by the other party; (d) was lawfully possessed, as evidenced by the receiving party's records, by the receiving party prior to receiving the Confidential Information from the disclosing party; (e) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, in this case, the receiving party shall provide the other party with prompt written notice of any such request or requirement.

Both parties shall take all actions reasonably necessary to ensure that the Confidential Information received from the other Party or produced and processed during the execution of the Agreement remains strictly confidential, protecting such information with the same degree of care as the receiving party uses to protect its own information of a similar nature, but no less than a reasonable degree of care and professional diligence.

Each Party may disclose the Confidential Information to those directors, officers, agents, consultants, partners, subcontractors and representatives of such party (collectively referred to as "Representatives") to whom disclosure is reasonably necessary in connection with the Agreement, provided that such Representatives have been made aware of their obligation to preserve the confidentiality of such Confidential Information and that such Representatives must be subject to confidentiality obligations that are at least as restrictive as those set forth hereunder. Each Party shall be fully liable for any disclosure of Confidential Information by its Representatives.

It is understood that all obligations with respect to Confidential Information contained herein shall survive termination, withdrawal or expiration of the Agreement, for any reason whatsoever.

12. MARKETING

Customer agrees that while the Agreement is in effect, Soilmec shall be authorized to identify Customer as a customer/end-user of Soilmec software and services (as applicable and without disclosing confidential data) in public relations and marketing materials upon Customer's prior written consent.

13. NOTICES

Notices under the Agreement shall be in writing.

If to Soilmec, any notice shall be delivered to:

SOILMEC S.p.A.
5819, via Dismano – 47522 – Cesena (FC) – Italy
Attention: LCS
E-mail: soilmec@soilmec.it

If to Customer, any notice shall be delivered to the address specified in the offer.

14. ENTIRE AGREEMENT AND MODIFICATIONS OF THE CONTRACT

These General Terms and Conditions, including the Special Terms and Conditions, any offer and all the attachment thereto, shall constitute the entire agreement between the parties, and superseded all prior discussions, representations, and understandings, both written and verbal, with respect to the subject matter hereof. Any amendments or modifications of the Agreement shall be in writing and executed by both of the contracting parties.

15. WAIVER

A failure or delayed exercise by one of the Parties on one or more occasions of a right arising from this Agreement, or possible tolerance of one of the Parties for any breach of this Agreement by the other Party, shall in no event be considered a waiver or acquiescence of any succeeding breach or of any right to enforce the terms and provisions of the present Agreement.

16. SEVERABILITY

If any provisions of the Agreement, or the application thereof, shall for any reason and to any extent be determined to be invalid or unenforceable, the remaining provisions of the Agreement will remain binding and enforceable, and the parties hereto shall negotiate in good faith to modify the Agreement so as to affect the original intent of the parties as closely as possible to the fullest extent permitted.

17. GOVERNING LAW AND JURISDICTION

The Agreement shall be governed by and construed in accordance with the laws of Italy.

All disputes between the Parties arising under, out of, or in any way connected with the Agreement, its validity, execution, resolution or interpretation, shall be resolved by seeking an amicable settlement of the dispute, upon written request of the diligent party, pursuant to art. 13.

If the dispute cannot be settled amicably within ten [10] days from the date on which either Party has served written notice on the other of the dispute, then such dispute shall be brought exclusively to the competent court in the place where the Provider resides.