

GUBELIN GEM LAB NEW YORK – ORDER FORM

Client Information

Submitter Order Number
In-take Date
Requested Due Date¹
E-mail Address
Tel. No.
Fax No.

Comments

Mailing: If not otherwise instructed, all listed items will be returned to the address of the submitter indicated above.
¹ Please note: for express service (testing within 2 working days) a surcharge of USD 300 per stone will apply. This surcharge is not applicable during Off-Premise-Testings.

Order Information

Item	Weight	Colour	Description	Requested Services	Declared Value (USD)
<i>example:</i>	<i>3.50 ct</i>	<i>blue</i>	<i>one faceted gemstone</i>	<i>B; O (12050896)</i>	
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

Total declared value

List of main services: please select the service/s you request and list the letter/s in the table above.
 You will find a detailed description of our laboratory services on the current tariff list / pricing schedule on our website.

Coloured Stones – Gemmological Report

- A Without origin
- B With origin
- B1 Gemmological Profile

Diamonds – Gemmological Report

- C Colourless
- C1 Colourless – short
- D/E Fancy Colour without / with clarity grading
- F Origin of Colour
- G Type

Pearls – Gemmological Report

- H Identification
- I Grading
- J Nacre Thickness
- K Extended

Gemstones set in Jewellery

- L1 Jewellery Passport (identification)
- L2 Jewellery Passport (including treatment)
- M1 do not unmount
- M2 unmount & remount
- M3 unmount / do not remount

Additional Services

- O Re-identification, Re-cut of coloured stones / Follow-up grading of repolished diamonds (only upon return of the Original Report)
- P Duplicate of Original Report (please indicate previous Report no.)
- Q Verbal opinion
- R Precious Metal Analysis
- S Translation in Chinese language
- T Translation in Japanese language
- U Voluntary disclosure of client's name
- V Identification of filling material
- W Gemstone Rating

The document “General Terms and Conditions” is an integral part of this order. The client hereby certifies that she / he has read the information on this Order Form, the General Terms and Conditions, and the current tariff list and accepts them fully. According to the General Terms and Conditions all items sent to Gubelin have to be insured by the client (submitter) for the delivery to Gubelin, the time period during which the items are in the laboratory and the return of the items to the client. On request of the client Gubelin will provide insurance coverage which is, however, available solely for the time the items are at the laboratory and might be subject to an additional charge. Clients who request this insurance coverage must tick the box below.

Do not apply Laser Ablation-ICP-MS Analysis

Do not conduct colour stability test

Gubelin insurance coverage requested for USD

(up to USD 1,100,000)

Item/s received

Date, Client Name & Company

Date, Gubelin Gem Lab Ltd.

GENERAL TERMS AND CONDITIONS

1. Scope.

These General Terms and Conditions (these "Terms") are applicable to all customers (the "Customers" and each, individually, a "Customer") of Gubelin Gem Lab Ltd. ("Gubelin"), a Delaware corporation for gemmological analyses or similar services (the "Services"), and shall govern all contracts, offers, Confirmed Orders (as defined in Section 4) and other commitments in connection with the provision of Services by Gubelin and all transactions incidental thereto for Customers, by or on behalf of Gubelin. No other terms or conditions shall be of any effect unless otherwise specifically agreed upon by Gubelin in a writing duly executed by Gubelin. Any additional or different terms or conditions of the Customer are hereby expressly declined by and shall not be binding on Gubelin. No terms and conditions of the Customer shall at any time form a part of the content of any agreement, even if they are not expressly rejected by Gubelin. Failure of Gubelin to object to terms and conditions communicated by the Customer shall in no event be construed as an acceptance of any other terms and conditions.

2. Transportation and Insurance.

All diamonds, gemstones, pearls, jewellery and other items (each, a Gemstone, and collectively the "Gemstones") may be delivered to Gubelin's facility in New York City, New York at Customer's sole risk via courier service or registered mail or other means of transportation at the election of Customer. Any and all Gemstones sent to Gubelin shall be insured by Customer to their full value, such insurance covering the delivery to Gubelin, the time period during which the Gemstones are at the laboratory and the return of such Gemstones by Gubelin to Customer. Customer is solely responsible for and shall arrange the completion of all formalities with respect to the import and export of Gemstones into and out of the United States and the payment of all import and other duties, pursuant to all applicable laws and regulations. Gubelin shall not accept any Gemstones for which such import, export and customs formalities have not been completed.

3. Fees and Conditions of Payment.

The fees for the Services shall be governed by Gubelin's pricing schedule in effect at the time of the placement and acceptance of any order. The pricing schedule is accessible at www.gubelingemlab.com and a written copy may be provided by Gubelin to Customers upon request. The pricing schedule may be amended by Gubelin at any time. Invoices for Services rendered become due with the completion of the Services and shall be paid by check, credit card or wire transfer within 30 days of the invoice date.

Gubelin reserves the right to demand payment prior to delivery of any Gemmological Report (as defined in Section 5 below). Unless otherwise agreed in writing by Gubelin, new Customers are required to provide payment in advance of the performance of any work.

4. Orders and Delivery Deadlines.

All offers made by Gubelin are revocable and may be changed by Gubelin at any time prior to Customer's written acceptance of such offer. If Gubelin receives an order for Services from a Customer, whether in response to Gubelin's offer or otherwise, Gubelin shall not be bound by such order unless such order has been accepted in writing by a duly authorized representative of Gubelin (a "Confirmed Order"). Each Confirmed Order shall include a description of the Services, including without limitation a description of each Gemstone and insurance value of each Gemstone. Each Confirmed Order shall be subject to these Terms.

Gubelin does not guarantee the performance of the Services or completion of a Report (as defined in Section 5 below) by any specific date. Confirmed Orders will, however, under normal circumstances be completed by Gubelin within 5 business days after the receipt of the Confirmed Order. If this is not possible, Gubelin will inform the Customer.

5. Scope of Services and Report.

Gubelin may deliver to Customer a Report, to the extent reasonably possible, reflecting the results of Gubelin's examination of the Gemstones set forth in the Confirmed Order and delivered to Gubelin (the "Report"). Only the original Report shall be considered by the Customer as representing the results obtained by Gubelin during its examination. A Report may be prepared by agents or employees of Gubelin or any of its affiliates. Notwithstanding the foregoing, Gubelin shall be solely responsible for such Report. The signatures featured in the Report may be facsimiles, or in electronic form. Photographs of Gemstones serve solely as a representation of the examined Gemstones and may differ in appearance from the original Gemstones. The results contained in the Report shall be limited to a selection of identified characteristics, which were ascertained during the examination of the Gemstones in accordance with the generally known scientific standards current at the time of the examination. The Customer acknowledges that it is possible that a later re-examination of the Gemstones may lead to different results, should the applicable scientific standards for the examination change subsequent to the examination of the Gemstones by Gubelin, and in no event shall Gubelin be liable for any different results in any subsequent examinations of the Gemstones.

Upon written request by Customer, Gubelin may, at its sole discretion, add a comment to the Report disclosing the name of the Customer who presented the Gemstone to Gubelin for testing. The mention of the Customer's name on the Report does not imply any evidence regarding the ownership of the Gemstone, nor does it provide any reliable information on the possible origin or supply chain of the Gemstones.

Customer acknowledges and agrees that Gubelin may disclose the Report and the information contained therein, including without limitation the results of Gubelin's examination of any Gemstone, if (a) such disclosure is required by applicable law, rules or regulations, legal process, or (b) Gubelin has reason to believe that a Gemstone is stolen property. If Gubelin has reason to believe that a Gemstone is stolen property, Gubelin may notify appropriate law enforcement authorities and deliver such Gemstone to such law enforcement authorities. Gubelin may also deliver a Gemstone to the possession of any party other than the Customer if required pursuant to an order of a court, arbitration tribunal, or governmental authority.

6. Verbal Opinion and GemCard.

For some Gemstones a preliminary verbal opinion is possible based on a short analysis. This so-called "Verbal" is a non-binding, non-committal and informal opinion of the gemmologist on a very limited basis of analytical indications. The Verbal may differ from the final result in the Report, and Gubelin is not always in the position to give a Verbal on a Gemstone. If the Customer requests a Verbal, Gubelin will contact the Customer before performing the full analysis, giving the Customer the option of stopping the analytical process, based on the Verbal, or Gubelin's inability to give a Verbal. In such event, the Customer is obliged to pay the cost for the Verbal, even if Gubelin is unable to give a Verbal, and the Customer is obliged to pay the cost for the full Service even if the results in a Report differ from the Verbal. The Gubelin GemCard (the "GemCard") is a preliminary, informal, incomplete and non-binding conclusion of the analysis performed on a Gemstone and is delivered to the Customer on paper, in handwriting by a Gubelin Gem Lab employee. The GemCard is only handed out personally on off premises testings (OPT) or fairs and is not sent to the Customer, neither in hard copy nor electronically. The GemCard contains limited information on the conclusion of the analysis performed on the Gemstone and does not replace the Report. The GemCard is not subjected to the standard quality control procedure performed on Reports and thus, information on the GemCard might differ from the information stated on a later Report. Gubelin strongly discourages Customers from making any decisions or entering into any transactions with respect to a Gemstone solely on the basis of a GemCard or a Verbal. In no event shall Gubelin be liable to Customer or any third party for any losses, damages, costs or expenses resulting from any such transactions or decisions in reliance on any GemCard or Verbal.

7. Origin of Gemstones.

A professional opinion regarding the probable geographic origin of a Gemstone may be given whenever possible and upon request by the Customer. Information concerning the geographic origin of a Gemstone is based on comparisons of internal characteristics, physical and chemical characteristics with the characteristics of reference stones of known identity, the results of continuing scientific research of Gubelin and published gemmological findings. Gubelin's opinion concerning geographical origin of a Gemstone is not an expression of an opinion concerning the quality or value of the examined Gemstone. Designations of geographic origin are expressions of opinion based on known facts and scientific observation but Gubelin makes no warranty whatsoever regarding the actual origin of any Gemstone. The combination of data may not, in all instances, provide the necessary basis for an origin determination. When such case arises, Gubelin does not comment as to the origin of the Gemstone.

8. Explanations with Respect to the Treatment and Handling of Gemstones.

In accordance with internationally accepted standards, Gubelin may not mention all types of treatments that may have been applied to or used with respect to the Gemstones under examination. The fact that a particular method or treatment is not specifically mentioned in a Report does not mean that such treatments or methods were not used with respect to the particular Gemstone. Any remarks concerning the presence or absence of any treatment type or method are solely the expression of the findings made by Gubelin.

9. Identification, Grading and Treatment of Diamonds.

Gubelin only grades diamonds which have been determined to be natural. Synthetic diamonds will be identified as such but will not be graded by quality grades. Symbols used in cut sketches show the approximate size, type, number and location of internal and external characteristics of the examined diamond. If significant characteristics are present, smaller external characteristics as well as minute inclusions may not be included in the sketch. Enhancements to the clarity or coloration of a natural diamond will be mentioned in the Report. However, its quality will not necessarily be graded. The Customer acknowledges that certain treatment methods used on diamonds are difficult to detect or can only be detected under very specific circumstances. Accordingly, Gubelin makes no warranty whatsoever that the analysis performed by Gubelin has revealed all treatments to which a diamond has been subjected.

10. Analysis of Precious Metals.

Upon written request of the Customer set forth in the respective Confirmed Order, Gubelin may perform an analysis of precious metals, whether connected to a Gemstone or otherwise. In such event, the term "Gemstones" shall be deemed to include such precious metal. Precious metals are analyzed by LA-ICP-MS (see below). Gold (Au), silver (Ag), copper (Cu), platinum (Pt), palladium (Pd), zinc (Zn), nickel (Ni), lead (Pb), rhodium (Rh), manganese (Mn), iron (Fe), tin (Sn), arsenic (As) and antimony (Sb) are analysed quantitatively. The precious metal alloys are classified according to guidelines proposed by the "Convention on the Control and Marking of Articles of Precious Metals" (Annexes I and II), which is adopted by the "Confederation Internationale de la Bijouterie, Joaillerie, Orfèvrerie, des Diamants, Perles et Pierres" (CIBJO).

11. Jewellery Passport and Gemstone Rating.

Gubelin Gem Lab Jewellery Passports are issued for jewellery items containing multiple gemstones, typically of different types. The Gubelin Gemstone Rating on the other hand intends to express the quality, rarity and saliency of a specific gemstone in a number. Both services are issued on the basis of a different, reduced standard of analysis as is applied on other Gubelin Gem Lab services. Thus Jewellery Passports and the Gemstone Rating are not subject to the same level of scrutiny as Gubelin Gemmological Reports. It is important to understand that Gubelin Jewellery Passports and the Gemstone Rating do not comply with the standards specified by the Gubelin Gem Lab Seal. These two services differ from Gemmological Reports with regards to the depth, breadth, details and numbers of analyses. The detail of disclosure – specifically regarding authenticity and treatments – used in Jewellery Passports and the Gemstone Rating is also limited and simplified compared to Gemmological Reports. Owing to this reduced level of analysis and disclosure, the findings stated in a Jewellery Passport or the Gemstone Rating might not be consistent with the findings stated in a Gubelin Gemmological Report for the same item.

12. Scientific Research.

All data and all rights, title and interests thereof, including but not limited to gemmological, geological or chemical data, which is gathered during the analysis of any Gemstones, remain the sole property of Gubelin and may be freely used for scientific or commercial research purposes by Gubelin or its affiliates.

13. Acceptance of Services.

Confirmed Orders processed by Gubelin shall be examined by the Customer within five (5) business days beginning on the date of delivery to the Customer. The Services and Gubelin's work products shall be deemed to be accepted unless a written notice describing the deficiency is received by Gubelin within the applicable time period set forth above. The analyses that Gubelin applies include non-destructive and, if required, quasi nondestructive analytical methods, such as Laser Ablation-Inductively Coupled Plasma-Mass Spectrometry (LA-ICP-MS). This method evaporates minute amounts from the girdle (whenever possible) by means of a laser beam. The LA-ICP-MS analysis creates a small pit with a diameter of, typically, 0.08 mm and a depth of approximately 0.005 – 0.010 mm. These pits are hardly visible by 10x magnification, and the loss of weight is below 0.001 ct and can thus not be detected

by any gemmological weight balance. The LA-ICP-MS analysis does not affect the quality or visual appearance of the gemstone.

14. Lawful Possession.

The Customer represents and warrants to Gubelin that (a) each of the Gemstones is in the lawful possession of the Customer, (b) the Customer is either the lawful owner of such Gemstone or authorized by the lawful owner to submit such Gemstone to examination by Gubelin in accordance with, and subject to, these Terms, (c) if the Customer is the owner of the Gemstones, the Gemstones have been acquired in good faith for value in accordance with Section 2-403 of the Uniform Commercial Code, as in effect from time to time, or, if the Customer is not the owner of the Gemstones, the Customer has no reason to believe that the Gemstones have not been so acquired by the owner.

Customer shall indemnify, defend and hold harmless Gubelin, its affiliates, subsidiaries, officers, directors, employees and agents, from and against any and all liability, claims, lawsuits, losses, demands, damages, costs and expenses, including, reasonable attorney's fees, arising from any third party claim caused by a breach of this Section 14 by the Customer.

15. Affiliated Companies, Subcontractors and other Auxiliaries.

The Customer agrees that any or all work that is part of the Services, including, but not limited to handling, testing, analyzing, unmounting and mounting of a Gemstone, may be performed by one or more of Gubelin's affiliates, subcontractors or other agents. Furthermore, the Customer agrees that regardless of the place of submission of the stone, the service or parts of the service might be carried out by other Gubelin Gem Lab facilities. This implies the acceptance of the shipment of items by professional shipping companies. Notwithstanding the foregoing as between Gubelin and the Customer, Gubelin shall be solely responsible for the Services. With the Confirmed Order, the Customer authorizes Gubelin to carry out unmounting/remounting services. Customer acknowledges with the Confirmed Order that Gubelin is not liable for any damage which might be caused to the Gemstones during the unmounting or remounting process. All risk of potential damage to the Gemstones is borne exclusively by the Customer. Gubelin assures that the unmounting/remounting services are conducted by experienced and trained professionals only.

16. Warranty and Liability.

Services will be performed by Gubelin with reasonable care, in a good and workmanlike manner and consistent with standard industry practices and generally known current scientific standards. Gubelin shall not be liable under any circumstances to Customer or any other third party if (a) the Services or work products prepared in connection with the Services are not used for the intended purpose; (b) Verbal, GemCard or Report is modified, summarized or interpreted without Gubelin's prior written consent or (c) the Customer did not disclose to Gubelin all material facts known to the Customer with respect to the Gemstone analyzed. In the event of any breach of the foregoing warranty, Gubelin shall have the right to re-perform the Services at no cost to the Customer. Should Gubelin still be in breach of the foregoing warranty after re-performing the Services, the Customer's sole and exclusive remedy and Gubelin's entire liability for any breach of the foregoing warranty shall be to request to request a refund of the fees paid for the non-conforming Services. Any difference of results from any preliminary assessment, Verbal, or GemCard to a final Report or from any prior Report prepared in accordance with then current industry practice and generally known scientific standards shall not constitute a breach of the foregoing warranty, and in no event shall Gubelin be responsible for such difference.

EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 14, GUBELIN MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES OR OTHER WORK PRODUCTS OF GUBELIN OR ANY OF ITS AGENTS, AFFILIATES OR SUBCONTRACTORS. ANY AND ALL WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND DECLINED.

CUSTOMER MAY NOT BRING ANY ACTION ARISING OUT OF OR IN CONNECTION WITH ANY TRANSACTION COVERED BY THESE TERMS UNLESS SUCH ACTION IS COMMENCED WITHIN SIX MONTHS AFTER THE CAUSE OF ACTION HAS ACCRUED. THE LIABILITY OF GUBELIN HEREUNDER IS EXPRESSLY LIMITED TO DIRECT DAMAGES DUE TO THE GROSS NEGLIGENCE AND WILLFUL MISCONDUCT OF GUBELIN OR ANY OF ITS AGENTS, AFFILIATES OR SUBCONTRACTORS. IN NO EVENT SHALL GUBELIN BE LIABLE TO ANY PERSON FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR GOODWILL, OR ADDITIONAL EXPENSES INCURRED, WHETHER PURSUANT TO A CLAIM IN CONTRACT, TORT OR OTHERWISE AND WHETHER IN AN ACTION FOR BREACH OF WARRANTY OR OTHERWISE. GUBELIN IS NOT LIABLE FOR ANY LOSS OF OR DAMAGE TO THE GEMSTONE DUE TO NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY SUBCONTRACTOR, AGENT OR AFFILIATE. GUBELIN'S TOTAL LIABILITY TO THE CUSTOMER, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, SHALL BE LIMITED TO, AND SHALL NOT EXCEED THE AMOUNTS PAID TO GUBELIN BY THE CUSTOMER UNDER THE CONFIRMED ORDER GIVING RISE TO ANY LIABILITY HEREUNDER, AND CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR CARRYING ADEQUATE INSURANCE FOR THE LOSS OF, OR DAMAGE TO, THE GEMSTONE AT ALL TIMES WHILE THE SERVICES ARE PERFORMED.

17. Copyright and Other Intellectual Property Rights.

All Gubelin's patents (including without limitation patent applications and disclosures), trade secrets, copyrights, trade names, trademarks, service marks, proprietary materials, methods, processes, utilities, technology, inventions, devices, know-how, materials of any kind or other intellectual property and all improvements to any of the foregoing (collectively "Gubelin Property") used by Gubelin, its affiliates, subcontractors and/or agents in connection with the Services shall remain the sole and exclusive property of Gubelin, and Customer's rights to use such Gubelin Property shall be limited to those permitted by these Terms. Any Gubelin Property or improvements thereto which are used, improved, modified or developed by Gubelin at any time shall be the sole and exclusive property of Gubelin. Gubelin hereby grants the Customer a royalty-free, non-transferable, non-exclusive license to use Gubelin Property solely in connection with the use of any Report created as part of the Services. The Customer agrees that Gubelin may publish photos of the Gemstone for which Gubelin has prepared a Report in its folders, brochures, other publications and on its website, provided, however, that the identity of the owner of the Gemstone is not mentioned.

18. Payment Deferral.

Customers may pay any invoice for Services provided by Gubelin in whole or in part on or before the due date as set forth in Section 3. Customer shall pay an advance to Gubelin at the rate of five (5) percent per year. The specification or charging of interest shall not be deemed an agreement by the parties to extend credit. If a Customer fails to pay any invoice for Services provided by Gubelin in whole or in part for more than thirty (30) days, Gubelin may refuse to complete orders which have been, or will be, placed with Gubelin until such outstanding amounts and any interest on such outstanding amounts owing to Gubelin have been paid in full. Notwithstanding the foregoing, Gubelin shall be entitled all other available remedies at law or in equity.

19. Governing Law and Jurisdiction; Place of Performance.

The construction and validity of these Terms shall be governed by the laws of New York without giving effect to the conflicts of law principles thereof, regardless of where any order was placed or filed, the place of performance of the Services or delivery of Reports or where any other act or performance of Services occurred. Gubelin and the Customer each hereby agrees to the exclusive jurisdiction of the federal or state courts with jurisdiction in the City of New York, Borough of Manhattan, State of New York. The parties expressly waive any objection or defense based on the lack of jurisdiction or venue (including without limitation a plea for forum non conveniens). Notwithstanding the foregoing, the parties acknowledge and agree that legal remedies for any violation or threatened violation of any term of these Terms or Confirmed Order are inadequate and that Gubelin may suffer irreparable harm. In the event of a violation or threatened violation of any terms of these Terms, including without limitation Sections 15 and 19, by Customer or any of its agents, subcontractors or affiliates, Gubelin shall have the right, in addition to such other remedies as may be available pursuant to any applicable law or these Terms, to temporary or permanent injunctive relief enjoining such act or threatened act in any court of competent jurisdiction without any requirement to post a bond or provide other security. The parties hereby irrevocably waive their right to a trial by jury in any litigation in any court with respect to any claim, controversy or dispute arising out of or in connection with these Terms or a Confirmed Order.

20. Revisions; Assignment.

Gubelin may change, revise, amend or modify these Terms from time to time. Gubelin may, at its sole discretion, provide Customers with written notice of any such changes, revisions, amendments or modifications, provided, however, that any such changes, revisions, amendments or modifications shall become effective without any further action by any party and that they shall not apply to any Confirmed Orders prior to the effective date of such changes, revisions, amendments or modifications. Customer may not assign any contract with Gubelin or Confirmed Order without Gubelin's prior written consent, except that Gubelin may assign such Confirmed Order without the Customer's written consent to an affiliate, successor or acquirer, as the case may be. Subject to the foregoing, these Terms will bind and inure to the benefit of Gubelin's permitted successors and assigns.

21. Confidentiality.

"Confidential Information" means: (i) all data, software, know-how, trade secrets, and other business or technical information of Gubelin disclosed by Gubelin to the Customer in connection with the Services, shall be treated by the Customer as confidential or proprietary, provided that such Confidential Information does not include information that: (i) is or becomes generally known to the public through no fault or breach of these Terms by the Customer; (ii) is rightfully known by the Customer at the time of disclosure without an obligation of confidentiality; (iii) is independently developed by the Customer without use of the Gubelin's Confidential Information; (iv) is rightfully received by the Customer from a third party without restriction on use or disclosure; or (v) is disclosed with the prior written approval of Gubelin.

22. Entire Agreement; Modifications or Waivers; Severability.

These Terms, including all Confirmed Orders, shall be the complete and exclusive agreement between the parties with respect to the subject matter hereof and supersede any oral or written communications, understandings, acknowledgements or representations or agreements relating thereto. In the event of conflict between the provisions of these Terms and the provisions of a Confirmed Order, the provisions of the these Terms will govern and control. Confirmed Orders may only be modified with prior written consent of both parties. If any provision of these Terms or any Confirmed Order is held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of these Terms or such Confirmed Order will remain in full force and effect, and the provision affected will be construed so as to be enforceable to the maximum extent permissible by law.

23. Force Majeure.

Neither Gubelin nor the Customer will be responsible for any failure or delay in its performance under these Terms (except for the payment of money) due to causes beyond its reasonable control, including but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain, labor, energy, raw materials or supplies, war, acts of terror, riot, acts of God or governmental action provided that the non-performing party claiming force majeure provides the other party with reasonable notice and takes actions to mitigate the amount of delay caused by any such event.

24. Counterparts; Notices.

The Confirmed Orders may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Notices by a party regarding the exercise of rights and obligations under a Confirmed Order or these Terms must be signed by authorized representatives of such party, and delivered via courier, mail or e-mail to the other party's address indicated in the Confirmed Order, provided that a notice by e-mail shall only be validly given if receipt thereof is acknowledged in writing by the recipient.

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608 Fifth Avenue
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October 2020