

Terms and Conditions of Sale

1. General Terms

As used herein, “**Seller**” shall mean the selling entity listed on the face page of Seller’s applicable quotation or sales acknowledgement (the “**Order Acknowledgement**”) to which these terms are referenced. These terms and conditions of sale, and the terms contained in Seller’s applicable quotation, sales order acknowledgment, bill of lading, and/or invoice (the “**Terms**”) are the only terms which govern the sale of products (“**Products**”), services, including but not limited to installation, training, maintenance and support services (“**Services**”), and the license of software (“**Software**”) by Seller, to the customer (“**Customer**”). These Terms (collectively, this “Agreement”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms herein shall govern all sales or licenses of Products, Services, Software, or other items made by Seller, regardless of the terms and conditions stated in any purchase order or other document submitted by the Customer. Seller hereby disclaims and rejects any terms and conditions appearing in a purchase order or other document from Customer that are in addition to, or inconsistent with, the terms and conditions stated herein. Any such additional or inconsistent terms and conditions shall not be a part of this Agreement and shall not be binding on Seller. For avoidance of doubt, these Terms prevail over any pre-printed, standard or other terms set forth in Customer’s purchase order or any other document, which are all hereby rejected and shall be void. Fulfillment of Customer’s order does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these Terms, and Customer’s terms and conditions are expressly rejected. Customer’s acceptance of any quotation is expressly subject to Customer’s assent to these Terms.

2. Products

A. Orders. Customer may place orders by issuing purchase orders (“Purchase Orders”). All Purchase Orders are subject to acceptance by Seller. Accepted orders may not be cancelled or changed by Customer without Seller’s prior written consent. Any permitted changes or cancellations may be subject to additional charges or terms as determined by Seller in its sole discretion. Following acceptance of a Purchase Order, Seller will notify the Customer of the planned delivery date. Seller shall use reasonable efforts to meet the specified dates; however, all such dates are estimates only. If a Product is in stock and available, Seller reserves the right to ship Product in advance of the requested delivery date.

B. Delivery. Unless otherwise specified in Seller’s applicable Order Acknowledgement, all Products shall be delivered Ex Works (Incoterms 2020) the facility of Seller or its designee, at which time title to such Products and risk of loss shall pass to Customer. Software may be delivered through a customer-accessible portal or website, or other electronic means. Unless otherwise requested by Customer and approved by Seller, Seller shall select the shipper and the Customer shall be responsible for arranging shipment and for all customs, documentation and other logistics required to import the Product and otherwise transport the Product to the applicable destination. All freight, insurance, and other shipping expenses, export fees and costs, as well as any special packing expense, shall be paid by Customer. Delivery will be deemed complete upon delivery to the shipper or electronic delivery as described above.

C. Inspection. Upon receipt of Products, Customer shall inspect the Products. Customer shall promptly notify Seller, within ten (10) days after receipt of the Products or, where

installation is performed by Seller within (10) days after completion of installation, in writing of any claim that such items are damaged, missing, or otherwise non-conforming (“**Nonconforming Products**”). Customer shall provide Seller with the opportunity to inspect any shipment that includes any Nonconforming Products, including through video, photo and/or in person inspection as requested by Seller. If Seller determines that such Products are non-conforming, Seller shall, in its sole discretion, (i) repair or replace such Nonconforming Products or (ii) credit or refund the payments made for such Nonconforming Products. Seller will provide to Customer a return materials authorization (“RMA”) that must be included with the original packaging for a return to be accepted. Customer shall ship, at Seller’s expense, Nonconforming Products to the facility designated by Seller. If Seller exercises its option to replace Nonconforming Products, Seller shall, after receiving Customer’s shipment of Nonconforming Products, ship to Customer the replaced Products. Customer acknowledges and agrees that the remedies set forth in this Section are Customer’s exclusive remedies for the delivery of Nonconforming Products. Subject to Seller’s approval for returns, Customer will be liable for shipping and restocking charges in the event Products are returned to Seller which are not Nonconforming Products. Except as provided in this Agreement, Customer has no right to return Products to Seller. All loss, theft or damage that occurs during return shipping will be handled against the agreed upon INCOTERM on the applicable Order Acknowledgement.

D. Installation. Unless otherwise specified in the applicable Order Acknowledgement, Customer shall perform installation of any Products or Software.

E. Software. “**Software**” means the object code form of the Seller software, including without limitation any control or instrument software included with the Product. Customer understands and agrees that the Software is not being provided as a “work for hire” under any applicable local, state, federal, international or other laws and this is not an agreement for the sale of the Software. In acquiring Seller’s Software, Customer agrees to adhere to the Seller’s EULA, available [here](#).

F. Services. Unless otherwise specified in the Order Acknowledgement, service will be scheduled and completed within 18 months of purchase. If the service has not been completed within eighteen (18) months, and the delay is not caused by Seller, the Seller will consider the service to be delivered. If the service has been previously invoiced, the amount invoiced will be forfeited by the Customer. If the service has not been previously invoiced, the open amount on the order related to the service will be cancelled. If the service is still desired after the eighteen (18) month time period, it can be purchased at the current price.

3. Fees

A. The fees and/or rates for the Products, Services, or Software are set forth in an Order Acknowledgement.

B. Prices are subject to adjustment based on specifications, quantities, shipment arrangements, delays in shipment date caused by Customer, or other terms that were not part of the applicable Order Acknowledgement.

C. Unless otherwise specified in the applicable Order Acknowledgement, Customer shall pay Seller all invoiced amounts within thirty (30) days of the date of the invoice. Seller may impose interest on late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, from the date of delinquency. Customer shall reimburse Seller

for all costs incurred in collecting any late payments, including without limitation, costs of reasonable attorneys' fees. Seller also reserves the right to cancel or stop delivery of products in transit and withhold shipments in whole or in part if Customer does not pay Seller when due, or if Customer otherwise does not perform its obligations in these Terms. Customer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller. Any credit terms extended to Customer may be changed or withdrawn by Seller at any time upon notice. Seller reserves the right to require alternative payment terms, including, without limitation, a letter of credit or full or partial payment in advance.

D. All prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Customer. Customer shall be responsible for all such charges, costs and taxes; provided, however, that Customer shall not be responsible for any taxes imposed on, or with respect to, Seller's income. If Customer claims that a transaction is not subject to any tax, Customer is exempt, or Seller is not required to collect any tax, Customer shall provide Seller with any documentation necessary to support such a claim.

E. Credit card orders may be subject to an additional convenience fee.

4. Warranties

A. Warranties for Products. Seller warrants that Products will conform, in material respect, to the Product specifications as of the date of delivery and will be free from defects in materials and workmanship. Unless otherwise specified in Seller's applicable Order Acknowledgment, the warranty period shall commence: (i) on the date that installation is completed if the Product is installed by Seller; or (ii) on the date of shipment of the Product to the Customer if the Product is not installed by Seller. This warranty applies only to Products within the country of original delivery. Unless specified in Seller's applicable Order Acknowledgment or published on the company website, the warranty period for Products shall be the shorter of (i) twelve (12) months from the date the Product is shipped to Customer; or (ii) the applicable expiry or 'use by' date for Products that have an expiry date. For consumables, the warranty period is 90 days.

B. Service Parts. Parts replaced during a factory or on-site repair may be retained by Seller and shall become the sole and exclusive property of Seller upon repair or replacement. Seller warrants replacement parts for the longer of (i) the remaining term of the original warranty period of the Product in which the part is installed or (ii) ninety (90) days from the date of replacement. This warranty applies only to parts installed by Seller or a third party authorized by Seller. Products and Service parts may include parts that have been refurbished after prior use.

C. Services Warranty. Seller warrants that it shall perform Services in a professional manner using reasonable care and skill in accordance with industry standards. Services Warranty is as specified on Seller's applicable Order Acknowledgement or a service contract or statement of work signed by an authorized representative of Seller. Factory repair warranty period is 90 days and warranty is limited to a recurrence of the same failure that was addressed.

D. Software. Any Software (whether embedded in a Product or licensed separately) will be subject to and governed by the Software License Agreement located [here](#).

E. Third Party Products. Seller provides no warranties or credits on any third-party manufactured products supplied to Customer. To the extent contractually permissible, Seller will pass through to Customer any warranties provided by a third-party manufacturer.

F. Exclusions. The warranties set forth in this Section 3 shall not apply to any loss, damage or defect resulting from: (i) any installation, modification, calibration, repair, or servicing of the Product, including but not limited to modifications, repairs to or servicing of any hardware, firmware or Software incorporated in or connected to the Product, not performed by Seller or a third party authorized by Seller; (ii) any accidents or acts of God; (iii) negligence or willful misconduct of Customer or a third party; (iv) any relocation of a Product to a location other than the location of original installation, unless such relocation is authorized by Seller; (v) improper or inadequate use, storage, or maintenance; (vi) Customer or third party supplied hardware, software, interfaces, reagents, parts, consumables or other supplies; (vii) any combination or use of the Products with any incompatible equipment or ancillary products that may be connected to such Products; (viii) use or operation of a Product: (a) outside of the applicable Product specifications, or (b) inconsistent with the user manual provided with the Product; (ix) improper site preparation; or (x) ordinary wear and tear.

G. Remedies. As Customer's sole and exclusive remedy for breach of the warranties in this Section 4, Seller agrees either to repair, replace, or credit the original purchase price taking account the useful life of the applicable Product or Service, at Seller's sole option, any part or parts of such Products or Software which prove(s) to be defective provided that Customer has notified Seller in writing of such breach within the applicable warranty period.

H. Disclaimer. EXCEPT AS SET FORTH ABOVE AND TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, SELLER EXPRESSLY DISCLAIMS AND MAKES NO OTHER WARRANTIES WHATSOEVER WITH RESPECT TO PRODUCTS, SERVICES AND SOFTWARE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

5. Intellectual Property

A. Ownership. Except as expressly stated herein, these Terms do not constitute a grant of license with respect to any Seller intellectual property rights. Seller retains all its intellectual property rights, whether or not specifically recognized or perfected under the laws of the country where Products are located.

6. Indemnification

A. Intellectual Property. Seller shall, at its own expense, defend, indemnify, and hold Customer and its officers, directors, agents and employees harmless from and against all demands, claims, suits and actions, and all damages, liabilities, costs and expenses finally awarded to a third party by a court of applicable jurisdiction or through a settlement by Seller (including but not limited to reasonable attorneys' fees), to the extent arising out of or related to any third party suits or claims brought against Customer alleging that a Product infringes any intellectual property right in the country of the original purchase of such third party, provided that Seller is: (i) promptly notified by Customer in writing of the claim; (ii) rendered reasonable

assistance by Customer as required; and (iii) permitted to direct the defense or settlement thereof. The foregoing obligation of Seller does not apply with respect to any claim of infringement arising from (a) any Product, or portion or component of a Product that: (I) is or was made in whole or in part in accordance with Customer's specifications or instructions to the extent such specifications or instructions are the source of the alleged infringement; (II) was modified outside of the specifications or by any party not authorized by Seller (including without limitation Customer), to the extent the alleged infringement relates to such modification; (III) is or was combined or used with other products (hardware or software), processes, or materials (including Customer products or other products provided by Customer or any third party) not provided by Seller; (IV) Customer's continued allegedly infringing activity after being notified in writing by Seller or after receiving a modification delivered at Seller's expense that would have avoided the alleged infringement; or (V) a claim based on intellectual property rights owned or otherwise controlled by Customer.

B. Effect of Infringement. In the event that any Product is held in a suit or proceeding to infringe any intellectual property right of a third party and the use or sale of such Product is enjoined, or Seller reasonably believes that it is likely to be found to infringe or likely to be enjoined, then Seller may, in its sole discretion and at its cost and expense: (i) procure for Customer the right to continue using such Product in accordance with this Agreement; (ii) modify such Product so that it becomes non-infringing; or (iii) replace such Product with a product that is substantially similar in functionality and performance; (iv) repurchase the applicable Product, taking into account the remaining useful life thereof.

C. Sole Remedy and Exclusive Liability. Sections 5(A) and 5(B) state Customer's sole remedy and Seller's exclusive liability in the event that a Product infringes any third party intellectual property right.

7. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LIABILITY OF SELLER AND ITS AFFILIATES, LICENSORS, AND SUPPLIERS ARISING IN ANY WAY OUT OF PRODUCTS, SERVICES OR SOFTWARE, THEIR USE OR DISPOSITION, OR OTHERWISE UNDER THIS AGREEMENT, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER HEREUNDER FOR THE APPLICABLE PRODUCTS, SERVICES AND SOFTWARE WITHIN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE MOST RECENT EVENT GIVING RISE TO THE LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER SELLER NOR ITS AFFILIATES, LICENSORS, OR SUPPLIERS, WILL BE LIABLE, UNDER ANY CONTRACT, TORT, STRICT LIABILITY, OR OTHER THEORY, FOR ANY SPECIAL, PUNITIVE, MULTIPLE, INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES, OR FOR DAMAGES RELATING TO LOSS OF OR DAMAGE TO DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES, OR TECHNOLOGY, LOSS OF ANTICIPATED REVENUE OR PROFITS, WORK STOPPAGE, OR IMPAIRMENT OF OTHER ASSETS, WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

The limitation of liability stated in this Section shall not apply to liability arising under Section 5 (Indemnification) or liability resulting from Seller's gross negligence or willful misconduct.

8. **Export Restrictions**

A. **Items**. Customer acknowledges that each Product and any related Software and technology, including technical information provided by Seller, including those contained in product documents (collectively "Items"), is subject to U.S., EU and local government export controls.

B. **Export Controls**. The export controls may include, among others, those of the Export Administration Regulations of the U.S. Department of Commerce (the "EAR"), which may restrict or require licenses for the export of Items from the United States and their re-export from other countries.

C. **Compliance Requirements**. Customer shall comply with the EAR, and all other applicable laws, regulations, treaties, and agreements relating to the export, re-export, and import of any Item. Customer must not, directly or indirectly, without first obtaining the required license to do so from the appropriate U.S. or other government agency, export, re-export, distribute or supply any Item to (a) any restricted or embargoed country or to a person or entity whose privilege to participate in exports has been denied or restricted by the U.S. government and/or (b) any person or entity who is involved in improper development or use of nuclear weapons or of chemicals/biological weapons, or missiles, or in terrorist activities. Customer will, upon request, provide information on the end user of any Item it exports or plans to export.

9. **Miscellaneous**

A. **No Resale**. Products sold hereunder are being provided to Customer as the end-user. Unless specified in the applicable Order Acknowledgement (in which event Customer should provide the name and address of the end user to whom the Product is sold), Customer is not permitted to purchase Products for resale and shall not transfer, sell, or otherwise distribute Products to any third party, whether alone or in combination with other materials.

B. **Regulatory**. Customer acknowledges that unless otherwise specified in the applicable Order Acknowledgement the Products are provided For Research Use Only and have not been approved, cleared, or licensed by the United States Food and Drug Administration or any other regulatory entity, whether foreign or domestic, for any purpose. Customer shall not use any Product for any diagnostic or therapeutic purpose or otherwise in any manner without Seller's prior written consent.

C. **Compliance with Law**. Each party shall comply with all applicable laws, regulations and ordinances in performing its obligations under this Agreement. Each party shall maintain in effect all licenses, permissions, authorizations, consents and permits needed to carry out its obligations under this Agreement. Customer acknowledges that the Products and related technical information are subject to the applicable U.S. export control regulations and Customer shall comply with all applicable restrictions and prohibitions on sale, transfer, export, shipment or other supply of Products, directly or indirectly, to any person, entity or country, or for any activity.

D. **Assignment**. Neither party shall sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title, or interest therein, without consent of the

other party, which consent shall not be unreasonably withheld, except that no consent shall be required for an assignment of this Agreement by either party pursuant to a change of control or a merger or sale of substantially all of a party's assets or outstanding stock. This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns.

E. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Massachusetts, without regard to (i) its conflict of law provisions, and (ii) the applicability, if any, of the United Nations Convention on Contracts for the International Sale of Goods. Each party consents to, and agrees that each party is subject to, the exclusive jurisdiction of the state and federal courts of the State of Massachusetts with respect to any actions for enforcement of or breach of this Agreement.

F. Force Majeure. Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder) when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of the impacted party, including, without limitation: acts or omissions of the other party; acts of God, including flood, fire, earthquake, or explosion; mandatory or voluntary compliance with governmental regulations, requests, or actions; war, invasion or hostilities (whether war is declared or not); terrorist threats or acts, riot, or other civil unrest; national emergency; revolution or insurrection; epidemic; lockouts, strikes or other labor disputes (whether or not relating to either party's workforce); restraints or delays affecting carriers; inability or delay in obtaining raw materials or supplies of adequate or suitable quality; or telecommunication breakdown or power outage.

G. Entire Agreement and Controlling Documents. This Agreement (contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes all proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the parties relating thereto and is binding upon the parties and their permitted successors and assigns. Only a written instrument that refers to this Agreement and is duly signed by both authorized representatives of both parties may amend this Agreement. In the event of a conflict in terms between these Terms and the Order Acknowledgement, these Terms shall control.

H. Headings; Counterparts. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be an original instrument.

I. Conflict Minerals Policy. Seller's Conflict Minerals Policy located [here](#). Seller encourages its customers to adhere to such policy.

J. Waiver and Severability. The waiver or failure of either party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of the subject right or any further right under this Agreement. If any provision of this Agreement or the application thereof to any party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event, the parties shall use their best efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision.