



**I. Product.** “Products” shall mean any products or services identified in (a) any of ASP’s proposals, quotations or order acknowledgements, (b) current applicable price lists, (c) any of ASP’s invoices or (d) the document referencing this Agreement, in each case having the ASP specification applicable to the relevant product. Alterations to any Product which Seller deems necessary to comply with specifications, changed safety standards or governmental regulations, to make a Product non-infringing with respect to any intellectual property or any other proprietary interest, or to otherwise improve a Product may be made at any time by Seller without prior notice to, or consent of, Buyer and such altered Product shall be deemed fully conforming. Seller reserves the right to make changes, at its sole discretion that it believes will enhance the product’s performance, reliability, and/or technical superiority as per technological advancements. These changes may be made with or without Buyer notification. Seller will not be obligated, under any circumstances, to retrofit or upgrade modules already deployed in the field.

**II. Price and Terms of Payment.** Seller shall pay for Product in accordance with the terms of the Purchasing Agreement, if any. Unless otherwise agreed, Buyer shall pay 50% of the purchase price as Down Payment and the balance upon notification by Seller that Product is ready for shipment. The parties may modify this condition in a written document executed by both parties. Payment shall be by personal check, corporate check, certified check, or telegraphic transfer. Down Payments are nonrefundable, unless the Down Payment consists of 100% of the Purchase Price. As applies solely to transactions exclusively within the United States and upon credit approval by Seller, payment terms shall be net thirty (30) days from the date of the shipment, or in the case of services, net thirty (30) days from the date of completion. Seller reserves the right to require alternative payment terms including, without limitation, letter of credit or payment in advance. All prices are, in the case of a quotation, firm for thirty (30) days from the date of quotation and otherwise Seller may change its prices at any time without prior notice to Buyer, but such change shall not affect any accepted Purchase Order. All prices are in U.S. currency unless otherwise specified by Seller. Any tax or other charge which Seller is liable to collect on behalf of any governmental authority as a result of the sale, use or delivery of Products, including without limitation, duties, value added and withholding taxes, is the responsibility of the Buyer, and if paid by Seller shall be charged to Buyer as a separate item on the invoice, to the extent possible. All handling or other charges including without limitation insurance, brokerage fees, export or import tariffs, delivery guarantees, border controls and/or customs fees, travel expenses, installation if so indicated above, transportation, crating or special packaging and any other expenses required for the shipment to reach its destination shall be the responsibility of the Buyer. Buyer shall transmit to Seller arrangements for the above cited requirements no later than fourteen (14) days prior to the desired shipment date. Any delay in Seller’s receipt of this information may result in a delay in shipment and/or an increase in shipping costs. Seller shall not be responsible for any delays or additional costs caused by Buyer’s non-compliance with any of the provisions cited herein. If at any time Buyer is delinquent in the payment of any invoice or is otherwise in breach of this Agreement, Seller may, at its discretion, stop performance of services or withhold shipment (including partial shipments) of any order and may, at its option, require Buyer to pre-pay for further performance or shipments. All payments not received when due shall be subject to an additional charge of one and one half percent (1.5%) per month (annual rate 19.56%) of the unpaid amount or the maximum rate permitted by law, whichever is less, until the date of payment. Buyer grants Seller a security interest in Products (excluding services) purchased under this Agreement to secure payment for those Products purchased. If requested by Seller, Buyer agrees to execute financing statements to perfect such security interest. There is no set-off right for the Buyer.

**III. Shipment and Delivery.** Unless otherwise agreed by the parties in writing, Seller shall ship the Product to Buyer no later than six to eight weeks after the date on which Seller receives Buyer’s Down Payment. Shipping dates specified or communicated by Seller to the Buyer are approximate dates only. Failure to ship on such dates shall not be considered a breach by Seller and notwithstanding any other agreement or understanding of the parties, Buyer shall not seek any monetary or equitable relief, or any other damages, for any injury or loss to Buyer as a result of the delayed delivery. Time is not of the essence unless otherwise agreed by the parties in writing. Seller shall be permitted to make partial shipments of Products. The shipment schedule is contingent upon timely receipt by Seller of Buyer’s Down Payment, timely payment of the balance of the purchase price, and the fulfillment of other conditions that, if applicable, are stated elsewhere in this Agreement. Any failure by Buyer to adhere to the payment plan as outlined in Article IV may cause Seller to revise the shipment schedule. All claims for shortage or defect of Products ordered or for incorrect charges must be presented to Seller within ten (10) days after receipt by Buyer of the particular shipment of the Product by written notice prepared by Buyer outlining in detail the alleged shortage or defect of the Product. If Buyer fails to so notify Seller and notwithstanding any other provision in this Agreement, each Product shall be deemed accepted by Buyer upon delivery and all claims of shortage or defect thereby waived. If Buyer desires to return the Product to Seller to obtain appropriate relief, Buyer shall follow the return procedures outlined in Article XI and shall be responsible for all costs of transportation and packaging of the Product, including transportation insurance. Any relief granted by Seller to Buyer shall not include refund or return of any Down Payment paid by Buyer, unless the Down Payment consists of 100% of the Purchase Price.

**IV. Insurance.** Buyer shall have the option to choose the carrier for transportation of the product and shall then pay any insurance costs on the shipment. If Buyer requests that the Seller choose the carrier, Buyer shall then reimburse Seller for all expenditures made by Seller for the purpose of transporting and insuring the Product during transportation. In that event, Buyer shall not hold Seller liable in any way for negligently choosing the carrier. Seller shall not be liable for damages or penalty for delay in delivery or for failure to give notice of any delay, and the carrier shall not be deemed to be an agent of Seller. Insurance for loss and/or damage in transit, in excess of what is carried by the carrier, is the responsibility of Buyer.

**V. Risk of Loss.** Notwithstanding any other provisions in the Purchase and Sale Agreement, title to and risk of loss to the Product (excluding services) shall at all times pass from Seller to Buyer upon delivery by Seller to the shipping carrier at the FOB point of Lake Mary, Florida, U.S.A.

**VI. Travel and Installation Expenses.** Buyer shall reimburse Seller for all expenses related to travel by Seller's personnel to Buyer's facilities to deliver, install, modify, or otherwise advise Buyer of the Product purchased under this Agreement. Such expenses include but are not limited to airfare, hotel accommodations, fuel and mileage costs, meal and tip expenses, car rental, taxi charges and any other transportation costs incurred during and for the purpose of the service visit to Buyer's facilities. Seller shall, within a reasonable time after completion of the travel and services performed, submit to Buyer an expense report outlining all expenses for every individual involved in the travel to and services performed at Buyer's facilities. Buyer agrees that it shall pay an additional fee to Seller if it desires that Seller's personnel render services on the weekend or for longer than eight (8) hours per work day. Such additional charges shall be assessed against Buyer without notice and presented to Buyer in the Seller's expense report. Buyer shall not solicit Seller's personnel for any services whatsoever during the lifetime of this Agreement or after the time that this Agreement expires except as under the operation of this Agreement. Seller makes no guarantee and is not bound by any prior estimations of the duration of any installation period of the Product and Buyer shall not hold Seller liable for any damages, actual or consequential, caused by any reasonable delays in such estimated period of installation.

**VII. Placement of Additional Orders.** Upon delivery of the Product outlined in this Agreement, Buyer shall indicate his further intent to purchase additional units of the Product from Seller by providing to Seller a written order ("Purchase Order") for such additional units. Each Purchase Order shall constitute a firm order and shall indicate specific Products, quantity, price, total purchase price, shipping instructions, requested delivery dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, and any other special instructions. Any contingencies contained on such order are not binding upon Seller. All orders are subject to acceptance by Seller, who will accept or reject orders according to Seller's then current processes. No form of acceptance except Seller's written acknowledgement sent to Buyer shall constitute valid acceptance of Buyer's order. Any such acceptance is expressly conditioned on assent to the terms therein and the exclusion of all other terms. Buyer shall be deemed to have assented to the terms hereof, whether or not previously received, upon accepting delivery of any Product (as defined herein) shipped by Seller. If tender of these terms is deemed an offer; acceptance is expressly limited to these terms. Seller shall include in its acceptance any applicable discounts for Buyer's order of the additional units of the Product.

**VIII. Suitability of Purpose.** Seller assumes no responsibility for the performance of its Product beyond serviceability, merchantability, and adherence to specifications. It is up to the Buyer to determine the Product's suitability to his needs. Performance against published specifications and those defined in the contract are guaranteed but operation of the Product outside of these specifications is not assured.

**IX. Limited Product Warranty.** SUBJECT TO THE LIMITATIONS UNDER APPLICABLE LAW, THE LIMITED WARRANTIES SET FORTH HEREIN ARE EXPRESSLY IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR PARTICULAR PURPOSE, USE, OR APPLICATION, AND ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF SELLER, UNLESS SUCH OTHER WARRANTIES, OBLIGATIONS OR LIABILITIES ARE EXPRESSLY AGREED TO IN WRITING SIGNED AND APPROVED BY SELLER. SELLER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR DAMAGE OR INJURY TO PERSONS OR PROPERTY OR FOR OTHER LOSS OR INJURY RESULTING FROM ANY CAUSE WHATSOEVER ARISING OUT OF OR RELATED TO THE PRODUCT, INCLUDING, WITHOUT LIMITATION, ANY DEFECTS IN THE MODULE, OR FROM USE OR INSTALLATION. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, HOWSOEVER CAUSED. LOSS OF USE, LOSS OF PROFITS, LOSS OF PRODUCTION, LOSS OF REVENUES ARE THEREFORE SPECIFICALLY BUT WITHOUT LIMITATION EXCLUDED. SELLER'S AGGREGATE LIABILITY, IF ANY, IN DAMAGES OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE PRICE PAID TO SELLER BY THE BUYER, FOR THE UNIT OF PRODUCT OR SERVICE FURNISHED OR TO BE FURNISHED, AS THE CASE MAY BE, WHICH GAVE RISE TO THE WARRANTY CLAIM. SOME STATES DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OF DAMAGES SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

**X. Limitation of Liability.** EXCEPT FOR THE WARRANTIES STATED HEREIN FOR THE BUYER, NO WARRANTY, CONDITION OR REPRESENTATION, EXPRESS, IMPLIED, ORAL OR STATUTORY, IS PROVIDED TO THE BUYER OR ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION OR REPRESENTATION: (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE; (B) THAT THE PRODUCTS WILL BE FREE FROM INFRINGEMENT OR VIOLATION OF ANY RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS, OF THIRD PARTIES; OR (C) THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. THE BUYER'S SOLE AND EXCLUSIVE REMEDIES HEREUNDER AND THE ONLY LIABILITY OF SELLER IS EXPRESSLY LIMITED TO THE TERMS OF THE AGREEMENT. SELLER SHALL NOT BE LIABLE TO THE BUYER, OR ANY THIRD PARTY, FOR ANY OTHER SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT COSTS OR DAMAGES, INCLUDING WITHOUT LIMITATION, LITIGATION COSTS, INSTALLATION AND REMOVAL COSTS, LOSS OF DATA, PRODUCTION OR PROFIT ARISING FROM ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING SELLER'S OWN NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES. FOR PURPOSES OF THIS PROVISION, SELLER INCLUDES SELLER'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUBCONTRACTORS AND SUPPLIERS. IN NO EVENT SHALL THE TOTAL COLLECTIVE CUMULATIVE LIABILITY OF SELLER, ITS EMPLOYEES, OFFICERS, AGENTS AND DIRECTORS EXCEED THE AMOUNT PAID TO SELLER FOR PRODUCTS FROM WHICH SUCH LIABILITY AROSE DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE MOST RECENT CLAIM.

**XI. Return Material Authorization Procedures.** Seller will only accept Products returned under the Seller Return Material Authorization process ("RMA"). Buyer shall obtain a RMA number from Seller prior to returning any Product and return the Product prepaid and insured to

Seller to the FOB point of Lake Mary, Florida, U.S.A. Title to and risk of loss of the Product so returned passes to Seller at such FOB point. Seller will replace, repair or refund, at its option, any component found to be defective, in normal service during the 25 year warranty period. Components purchased from a third party (software and specific devices) carry their own warranties from their respective manufacturers and Seller assumes no liability or responsibility for these items. Any relief granted by Seller to Buyer shall not include refund or return of any Down Payment paid by Buyer, unless the Down Payment consists of 100% of the Purchase Price. Any Product which has been returned to Seller but which is found to meet the applicable specification for the Product and not defective in workmanship and material, shall be subject to Seller's standard examination charge in effect at the time which shall be charged to the Buyer. Where any Product is returned without an itemized statement of claimed defects, Seller will not evaluate the Product but will return it to the Buyer at the Buyer's expense.

**XII. Export Restrictions.** Buyer is liable for and must obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. Buyer will indemnify and hold Seller harmless for any violation or alleged violation by Buyer of such laws, rules, policies or procedures. Buyer shall not transmit, export or re-export, directly or indirectly, separately or as part of any system, the Products or any technical data (including processes and services) received from Seller, without first obtaining any license required by the applicable government, including without limitation, the United States Government and/or any other applicable competent authority. Arrangements for the above cited requirements must be transmitted to Seller's purchasing/shipping department no later than fourteen (14) days prior to the desired shipment date. Any delay in Seller's receipt of this information could result in: (a) a delay in shipment and/or (b) an increase in shipping costs. Seller will not be responsible for any delays or additional costs caused by Buyer (buyer) non-compliance with any of the provisions cited herein. Buyer also certifies that none of the products or technical data supplied by Seller will be sold or otherwise transferred to, or made available for use by or for, any entity that is engaged in the design, development, production or use of nuclear, biological or chemical weapons or missile technology.

**XIII. Rights in Intellectual Property and Tooling.** All right, title, and interest in and to the designs, models, patterns, specifications, copyrights, patents, trade secrets, trademarks and other intellectual property in the Products and related materials shall remain vested in Seller or its third party suppliers. Buyer shall not copy, make extracts from, translate or otherwise modify any of the Products or related documentation provided by Seller. All rights, title and interest in and to any inventions, discoveries, improvements, methods, ideas, computer and other apparatus programs and related documentation, other works of authorship fixed in any tangible medium of expression, mask works, or other forms of intellectual property, whether or not subject to statutory protection, which are made, created, developed, written, conceived or first reduced to practice by Seller solely, jointly or on its behalf, in the course of, arising out of, or as a result of work performed under an order, and any related tooling, set-up, fitting-up and preparation charges whether or not invoiced, shall belong to and be the sole and exclusive property of Seller. Buyer agrees not to reverse engineer all or any portion of any Product nor allow or assist others to do so. Buyer acknowledges the goodwill associated with Seller's trade-marks, and shall not obscure, remove or alter of any trademarks, patent numbers, labels, serial numbers affixed to any Product, related documentation or packaging, without the express prior written consent of Seller.

**XIV. Cancellation.** Buyer may not cancel, terminate, suspend performance of, or issue a hold on, any Buyer order, in whole or in part, without the prior written consent of Seller, which consent, if given, shall be upon terms that will compensate Seller for any loss or damage wherefrom, including but not limited to any work in process or services performed, the price of Products shipped to, manufactured for, or held separately for, the Buyer, and loss of profits, incurred costs, and a reasonable allocation of general, legal and administrative expenses relating to the Products. A 25% restocking fee will be applied.

**XV. Dispute Resolution.** If any dispute arises between any of the Parties in connection with the validity, interpretation, implementation or alleged material breach of any provision of this Agreement, they shall endeavor to settle such dispute amicably and in good faith. In the case of failure by the Parties to resolve the dispute in the manner set out above within 30 (thirty) days from the date when the dispute arose, the dispute shall be referred to a mutually acceptable sole arbitrator. The place of the court of arbitration shall be Seminole County, Florida, U.S.A. The arbitration proceedings shall be conducted in accordance with the applicable Florida Arbitration Code and shall be conducted in the English language. The arbitrator's decision shall be final and legally binding and judgment may be entered thereon. The arbitrator shall also decide on the costs of the arbitration proceedings. The cost of arbitration shall be borne by the losing party or by both parties in proportions decided by the arbitrators. The arbitrator's award shall be limited to actual damages only. The parties agree that any arbitration or other action in relation to an alleged breach of this Agreement shall be commenced within one year of the date of the breach, without regard to the date the breach is discovered. Any arbitration or other action not commenced within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute.

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