

GENERAL TERMS & CONDITIONS FOR THE SALE OF PRODUCTS AND SERVICES FOR LOGISNEXT AMERICAS INC

These General Terms and Conditions for the Sale of Products and Services (“GTCs”) apply to, control, and govern all transactions between the Company and its Customers with respect to Work provided by Logisnext, whether or not these GTCs are referenced in the applicable Order. These GTCs are subject to change, at any time, by Company, in Company’s sole discretion, without prior written notice. The most current version of the GTCs is available at <https://www.logisnextamericas.com/en/logisnext/documents>. Changes to the GTCs will become effective as of the “Last Updated Date” referenced in the then-current draft of the GTCs found on the website. Your continued issuance of Orders after having received notice of these GTCs will constitute your acceptance of and agreement to such changes. You should review and be familiar with the GTCs before issuing a bid or quote or supplying any Goods or Services. Unless otherwise provided herein, all capitalized terms used in these GTCs shall be defined as set forth in Section 1 below.

1. **DEFINITIONS AND GENERAL TERMS OF CONSTRUCTION**

1.1 **Definitions.** In addition to terms defined elsewhere in these GTCs, the following terms shall have the following meanings, unless the context otherwise clearly requires:

“**Affiliate**” or “**Affiliates**” means (in relation to a Party) any entity directly or indirectly controlled by, controlling, or under common control with that Party. “**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**controlled**” have correlative meanings.

“**Applicable Law**” means those laws (common or statutory), rules, regulations, codes, administrative and judicial orders and directives, rulings, interpretations, requirements or actions of any federal, state, provincial, or local government, or any agency or executive or administrative body of any of the foregoing, in each case that govern or pertain, as of the date of the applicable Order, to (i) the Parties’ respective obligations under the GTCs or any Order; and (ii) Company’s sale and/or Customer’s purchase of Equipment and/or Services.

“**Claim(s)**” means all claims (including those for property damage, environmental damage, personal injury, illness, disease, maintenance, cure, loss of consortium, loss of support, or death), damages, liabilities (including contractual liabilities), losses, demands, liens, encumbrances, government imposed fines and/or penalties, causes of action of any kind (including actions *in rem* or *in personam*), obligations, costs, judgments, interest, and awards (including payment of reasonable attorneys’ fees and costs of litigation), of any kind or character, whether under judicial proceedings, administrative proceedings, or otherwise, and expressly including any claims that may be brought by (or losses suffered by) spouses, heirs, survivors, legal representatives, successors, or assigns.

“**Company**” means, as applicable, Logisnext Americas Inc. (“Logisnext”) and its Affiliates.

“**Customer**” means and includes any company or person placing an Order or receiving a quote from Company.

“**Customer Group**” means and includes, individually or in any combination, Customer, its officers, directors, and employees.

“**Dealer**” means a Company-authorized dealer who may, on Company’s behalf, perform, in accordance with these GTCs, the Services.

“**Equipment**” means any goods, equipment, products, materials, or other tangible items purchased by Customer from Company pursuant to an Order.

“**Company’s Facility**” means the Company manufacturing plant, stocking point, or other location at or from which any Equipment is delivered to Customer.

“**Company Group**” means and includes, individually or in any combination, Company, its Affiliates, and its and their respective officers, directors, employees, subcontractors, contractors, consultants, vendors, agents, representatives, invitees, licensees, successors, and/or assigns.

“**Force Majeure**” means any act or event that renders it wholly or partially impossible for the affected Party to perform its obligations under these GTCs or any Order or delays such affected Party’s ability to do so, when such act or event (i) is beyond the reasonable control of the affected Party, (ii) is not foreseeable by the affected Party, (iii) is not due to the fault or negligence of the affected Party, and (iv) could not have been avoided by the affected Party by the exercise of reasonable diligence.

“Order(s)” means the written purchase order placed by Customer for the supply and sale of Equipment and/or the provision of Services. Orders shall be issued in conjunction with these GTCs and shall set forth:

- a) the specific Equipment to be delivered and/or Services to be provided by Company, or Dealer, as applicable, to Customer;
- b) the desired delivery date of the Equipment and/or Services, as applicable;
- c) the Price to be paid for the Equipment and/or Services, as applicable;
- d) the applicable shipping term for Equipment, if different than as set forth in Section 3.1(d);
- e) Company’s quotation for such Equipment and/or Services, if applicable; and
- f) any other pertinent information.

Orders shall not be effective until signed by both Parties.

“Person(s)” means an individual, corporation, partnership, joint venture, limited liability company, unincorporated organization, trust, association, or other entity.

“Price(s)” means the amounts to be paid by Customer to Company for Equipment and/or Services, as established in the GTCs and/or an Order.

“Services” means the services (including fleet management services, if applicable) furnished by Company or Dealer, as applicable, pursuant to an Order.

“Third Party” means any Person other than Customer Group or Company Group.

“Work” means Equipment sold and/or Services provided by Company pursuant to an Order. As a result, terms such as “perform Work” or “Work performed” shall mean and include Company’s manufacture, assembly, sale, and delivery, as applicable, of Equipment and/or the provision of Services.

1.2 **General Terms of Construction.** As used in these GTCs, unless expressly stated otherwise, references to (a) “includes” or “including” means “including, without limitation” or “including, but not limited to”; (b) “and/or” means “either or both”; (c) “or” means “either” and (d) a “Party” means Customer or Company and to the “Parties” means Customer and Company. Unless otherwise specified, all references in these GTCs to Articles or Sections are deemed references to the corresponding Articles or Sections these GTCs.

2. ORDERS; CANCELLATION OF ORDERS

2.1 **Orders.** Customer may submit Orders to Company for Work in any written form, including purchase orders, work orders, statements of work, emails, or other written communication; provided, however, each Order shall be subject to the terms and provisions of these GTCs, which shall control and govern all transactions between the Parties with respect to Work provided to Customer, whether or not these GTCs are referred to in the Order. THESE GTCs SHALL BE INCORPORATED BY REFERENCE INTO ANY SUCH ORDER AND INTO ANY QUOTE OR ORDER ACKNOWLEDGMENT SENT BY COMPANY. COMPANY’S WILLINGNESS TO SELL ANY PRODUCTS TO, OR PERFORM ANY OTHER WORK FOR, CUSTOMER IS EXPRESSLY CONDITIONED ON CUSTOMER’S ASSENT TO THESE GTCs. ANY TERMS AND CONDITIONS IN ANY ORDER OR ANY WRITTEN OR ORAL COMMUNICATION WITH RESPECT TO A TRANSACTION FOR WORK BY CUSTOMER THAT STATES DIFFERENT OR ADDITIONAL TERMS SHALL BE NULL AND VOID. COMPANY HEREBY OBJECTS TO AND REJECTS SUCH DIFFERENT OR ADDITIONAL TERMS, WHICH SHALL BE DEEMED MATERIAL ALTERATIONS. REFERENCE IN COMPANY’S ORDER ACKNOWLEDGMENT TO CUSTOMER’S ORDER OR ORDER NUMBER SHALL IN NO WAY CONSTITUTE AN ACCEPTANCE OF ANY OF CUSTOMER’S TERMS AND CONDITIONS. CUSTOMER AGREES AND UNDERSTANDS THAT ITS ISSUANCE OF AN ORDER SHALL CONSTITUTE ACCEPTANCE OF THESE GTCs IN ACCORDANCE WITH THIS ARTICLE 2. No other, additional, or different terms and conditions in any written or oral communication with respect to a transaction for Work (including the terms and conditions in any Customer request for proposal, request for quote, request for bid, Order, purchase order, or similar document) shall vary or amend the terms of these GTCs. Orders submitted orally shall be followed by a written Order by Customer within seven (7) days from the date of the oral order, failing which Company shall have no obligation to sell or perform Work thereunder. An Order shall be deemed accepted by Company when Company provides written acceptance and confirmation of such Order.

Orders shall be fulfilled by Company within a reasonable time period after an Order is accepted by Company. The delivery

date reflected in any Order is the targeted delivery date only, and Company will not be responsible for any loss or damage arising from any delay in fulfilling any Order.

In the event of a conflict between the terms of these GTCs and the terms in any Order, these GTCs shall control, unless the Order (i) makes specific reference and identification (by specific Section number) to the term(s) or provision(s) of these GTCs to be modified, (ii) explicitly states the intention of the Parties to effect the modification thereof, and (ii) is executed on behalf of each Party by an authorized officer of the Party. Such modifications shall be effective for that Order only, and no agreement to modify the terms and conditions of these GTCs with respect to any particular Order shall have the effect of varying or amending those terms and conditions (or any others in these GTCs) with respect to any other or subsequent Order. Each Order shall constitute a separate agreement between the Parties.

2.3 Cancellation of Equipment Orders. Except as otherwise provided below, Customer may cancel any Order, in whole or in part, prior to Company's acceptance, without penalty, by providing Company with written notice of cancellation. With respect to an Order that has been accepted by Company, for:

- (a) Equipment of Company's standard manufacture (with no customizations), Customer shall pay Company (i) all make-ready costs or other expenses incurred by Company in preparing the cancelled Equipment for shipment, if any, (ii) all vendor termination fees or charges incurred by Company, and (iii) as liquidated damages, and not as a penalty, a cancellation fee equal to twenty-five percent (25%) of the Price of the cancelled Equipment.
- (b) Equipment that has been or is being specially manufactured, customized, or modified to Customer's specifications, Customer shall have no right to cancel such Order once Company has commenced the manufacture or fabrication thereof, unless agreed to in writing by an authorized representative of Company. If Company permits such Order to be cancelled, Customer shall pay Company (i) the costs and fees described in subsection (a) above, and (ii) the cost of any raw materials or component parts purchased for Equipment and the labor cost for any work already performed with respect to such cancelled Order.

3. PRICING; INVOICING AND PAYMENT; TAXES

3.1 Pricing; Shipment; Bailment; Title and Risk of Loss.

- (a) Prices for Equipment shall be established in an Order, which may be amended from time to time upon written agreement of the Parties.
- (b) Prices for Services shall be established in an Order, which may be amended from time to time upon written agreement of the Parties.
- (c) Unless otherwise specified in an Order with respect thereto, Orders shall be delivered FCA Company's Facility (Incoterm 2020). Customer shall arrange for shipping and pay all shipment costs. If Customer requests Company to arrange for shipment or does not furnish Company with shipping instructions prior to the time Equipment is ready for shipment, Company shall ship the Equipment to Customer in a commercially reasonable manner, at Customer's risk, and Company may charge Customer for Company's shipping cost, plus fifteen percent (15%), or as specified in the Order.
- (d) If prior to shipment Customer requests that Company store, and Company agrees to store, the Equipment for any period of time, Company shall act solely as a bailee thereof and may, at its option, charge Customer Company's customary storage rates during the period of such bailment. Customer will maintain all-risk property insurance on the Equipment, at such Equipment's replacement value, during such bailment, and Company shall have no liability for any deterioration, damage, or loss of or to the Equipment resulting from atmospheric conditions, acts of God, or other events occurring during the period of bailment, including loss or damage resulting from the sole, joint, or concurrent negligence of Company in the storage or handling of the Equipment. Notwithstanding the foregoing, in no event shall Company be required to store the Equipment for a period exceeding thirty (30) days unless the Parties have entered into a separate, mutually acceptable bailment agreement with respect thereto.

3.2 Invoicing and Payment.

- (a) Customer shall pay the Price(s) for Equipment stated on each invoice submitted by Company within thirty (30) days of receiving the invoice. Invoices not paid in a timely manner will bear interest at the lesser of (i) one percent (1%) per month, or (ii) the highest rate allowed by Applicable Law until paid in full. In the event Customer fails to pay any undisputed amounts within sixty (60) days of receiving the invoice, Company shall be entitled to immediately suspend its performance without penalty or liability, and Customer shall release, indemnify, defend, and hold harmless Company Group for any and all Claims resulting from or arising out of such suspension. Invoicing and

payment terms related to Services are set forth in an Order.

- (b) In the event that Customer disputes an invoice or part thereof, Customer may withhold payment of the disputed amount(s) but shall nonetheless timely pay all undisputed amounts and promptly notify Company of the disputed amounts or items, specifying the invoice date and number, the amount of the disputed items or charges, and the Equipment and/or Service involved. The Parties shall work in good faith to promptly resolve disputed amounts. Invoices not disputed by Customer within thirty (30) days of receiving the invoice shall be deemed accurate and Customer shall not thereafter be entitled to dispute any amount(s) reflected thereon.

3.3 Taxes.

- (a) Company and Customer shall be responsible for the taxes legally imposed upon their respective businesses, including, but not limited to, taxes imposed upon their respective income, personnel, or property. Such taxes are for Company's or Customer's account, as applicable, and each Party shall release, indemnify, defend, and hold harmless the other from any liability with respect thereto.
- (b) Unless otherwise stated in the Order, Prices and rates quoted by Company and other charges payable by Customer are exclusive of taxes and duties. If not included in the Price or rates, such taxes and duties shall be shown as a separate line item on the invoices submitted by Company, are in addition to the Prices or rates, and shall be paid by Customer. The term "taxes and duties" shall mean all fees or charges imposed, assessed, or levied by any governmental department, agency, or taxing authority and shall include property taxes, sales and use taxes, value added taxes, goods and services taxes, and excise taxes or other charges of a similar nature, customs or other duties, customs agent fees, and other such charges and fees.

4. **WARRANTIES AND REMEDIES**

4.1 **Company Equipment Warranties.** The warranties for the Equipment shall be those set forth in Company's standard manufacturer's warranty. **THE WARRANTIES AND REMEDIES CONTAINED IN COMPANY'S STANDARD MANUFACTURER'S WARRANTY ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES APPLICABLE TO EQUIPMENT SOLD HEREUNDER. EXCEPT AS PROVIDED HEREIN, ALL WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS, IMPLIED, AND STATUTORY, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.**

4.2 **Company Service Warranties.** Company represents and warrants that the Services provided by Dealer hereunder (i) will be performed in accordance with Applicable Law and good industry standards; and (ii) are free from defects for ninety (90) days from the date of completion of the Services. **THE WARRANTIES SET FORTH IN THIS SECTION 4.2 ARE THE SOLE AND EXCLUSIVE WARRANTIES APPLICABLE TO THE SERVICES. EXCEPT AS PROVIDED HEREIN, ALL WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS, IMPLIED, AND STATUTORY, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.**

4.3 **Remedies for Breach of Service Warranties.** If a defect in the Services is identified during the ninety (90) day warranty period set forth in Section 4.2 above, Company shall, or shall cause Dealer to, re-perform any Services (or portion thereof) that do not conform to the warranties as set forth in Section 4.2 above, so long as written notice of such non-conformance is given to Company by Customer during the ninety (90) warranty period. **THE REMEDIES SET FORTH IN THIS SECTION 4.3 ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR THE BREACH OF ANY OF THE SERVICE WARRANTIES SET FORTH IN SECTION 4.2 ABOVE.**

4.4 **Third-Party Equipment Warranties.** Customer acknowledges that certain Equipment to be provided by Company may be sourced by Company from Third Parties ("Third-Party Equipment"). **With respect to any such Third-Party Equipment, Company warrants that same shall be new (unless otherwise specified in the Order) but makes no other representations or warranties whatsoever with respect thereto, hereby disclaiming any and all other warranties, express or implied.** Company shall pass through to Customer any warranties received from such Third-Party Equipment providers with respect to Third-Party Equipment, to the extent same are transferable. Other than passing through the warranties of Third-Party Equipment Providers that are transferable, Company shall have no further obligations with respect to Third-Party Equipment warranties.

4.5 Training; Manuals and Instruction.

- (a) Customer acknowledges and agrees that any training or instruction with respect to the use, operation, maintenance, or installation of any Equipment (collectively, "Training"), of Customer's employees or agents related to the

Equipment is Customer's responsibility pursuant to the Occupational Safety and Health Administration (1970) Standard No. 1910.178, and Customer assumes all responsibility for such Training and shall release, indemnify, defend, and hold harmless Company from and against any liability with respect thereto.

- (b) Manuals, guidelines, or other written materials with respect to the use, operation, maintenance, or installation of any Equipment (each, a "Manual") provided by Company are intended for use solely by persons using the Equipment described therein. Persons using the Equipment must read the Manual, in its entirety, and be appropriately trained before using or operating the Equipment. Company has attempted to include in its Manuals all information necessary for the proper use and operation of the Equipment described therein, but Company makes no representation or warranty as to the adequacy, accuracy, sufficiency, or completeness of the information, instructions, or guidance therein contained.

5. INDEMNITY; RELEASE; WAIVER

5.1 **Company Indemnification.** Company shall release, indemnify, defend, and hold harmless Customer Group against any and all Claims made by a Third Party that may arise, commence, or be asserted against Customer arising out of, resulting from, or relating to bodily injury or death or damage to or loss of property to the extent arising out of (i) an occurrence alleged to have been caused solely by a defect in the design or manufacture of the Equipment, provided that (a) no alteration, modification, or other change was made to the Equipment by Customer Group or any Third Party, unless such alteration, modification, or other change was authorized by Company in writing; and (b) any such defect was not caused by the negligence or willful misconduct of Customer Group or any Third Party; or (ii) Company's negligence or willful misconduct in performance of the Services.

5.2 **Customer Indemnification.** Notwithstanding Section 5.1 above, Customer agrees to release, indemnify, defend, and hold harmless Company Group from and against any and all Claims arising out of, resulting from, or relating to any bodily injury or death, or damage to or loss of property arising out of, resulting from, or relating to Customer's, its employees', contractors', agents', representatives', or invitees' negligence or willful misconduct.

5.3 **Defense of Claims.** Notwithstanding the foregoing or anything to the contrary contained herein, the Party owing indemnification pursuant to Section 5.1 or Section 5.2 (Company or Customer, as applicable) (the "Indemnifying Party") shall have the right, at its election, to control the defense of the indemnified Claims through counsel of the Indemnifying Party's choosing. Should the Indemnifying Party elect to defend the Claim, the indemnified Party shall nonetheless be entitled to participate in the defense, at its sole cost and expense, through counsel of its own choosing. The Indemnifying Party shall not enter into any settlement of any Third Party Claim without the prior consent of the indemnified Party, such consent not to be unreasonably withheld, conditioned, or delayed.

5.4 Consequential Damages Waiver.

- (a) Notwithstanding any provision of these GTCs to the contrary, **NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM AND AGAINST ANY AND ALL CLAIMS FOR CONSEQUENTIAL DAMAGES (AS HEREINAFTER DEFINED), REGARDLESS OF THE CAUSE OR CAUSES THEREOF, INCLUDING THE SOLE, JOINT, OR CONCURRENT NEGLIGENCE (IN ANY AMOUNT), GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, STRICT LIABILITY, BREACH OF WARRANTY, BREACH OF DUTY (STATUTORY OR OTHERWISE), BREACH OF CONTRACT, OR ANY OTHER LEGAL FAULT, LIABILITY, OR RESPONSIBILITY OF ANY MEMBER OF COMPANY GROUP OR COMPANY GROUP.** For purposes of the foregoing, the term "Consequential Damages" shall mean and include any and all indirect, incidental, special, punitive, exemplary, or consequential damages or losses of any nature whatsoever (whether or not foreseeable), including damages or losses for lost product or production, lost profit or revenue, loss of data, lost business, loss of or inability to use property and equipment, losses from business interruptions, losses resulting from failure to meet other contractual commitments or deadlines, or loss from facility downtime.
- (b) Without negating the preceding general exclusion of Consequential Damages, the Parties expressly agree that Claims with respect to the following shall **NOT** be considered Consequential Damages and are recoverable between the Parties: (i) Company claims with respect to compensation due it for Work; (ii) damages for breaches of a Party's obligations with respect to the Confidential Information or Intellectual Property (as such terms are defined below) of the other Party; or (iii) Claims with respect to which a Party is entitled to indemnification under these GTCs.

6. CONFIDENTIAL INFORMATION; INTELLECTUAL PROPERTY

6.1 Confidential Information.

- (a) Each Party receiving Confidential Information (the “Receiving Party”) warrants and agrees that throughout the issuance of an Order, and for a period of five (5) years thereafter, it shall maintain and safeguard the confidentiality of all Confidential Information received by it from the other Party (the “Disclosing Party”), handling and treating it with at least the same degree of care (and affording it the same protections) the Receiving Party observes and provides for its own confidential, proprietary, and trade secret information, and in all events with at least a reasonable standard of care. For purposes of the foregoing, the term “Confidential Information” shall mean and include only confidential, non-public information provided by the Disclosing Party that describes, pertains, or relates to the Work or the sale or the performance thereof, or to the tools, equipment, processes, or technologies employed in manufacturing, selling, or performing the same.
- (b) The non-disclosure and confidentiality restrictions described in this Section 6.1 shall not apply to any Confidential Information which (i) is or becomes generally available in the public domain through no wrongful act or unauthorized disclosure of the Receiving Party, (ii) was lawfully in the Receiving Party’s possession prior to being provided to the Receiving Party, (iii) is independently developed by the Receiving Party, without reliance upon or reference to the Confidential Information of the Disclosing Party, (iv) is independently made available to the Receiving Party as a matter of right by a Third Party without obligations of confidentiality.
- (c) If a Receiving Party receives a request or order to disclose all or any part of the Disclosing Party’s Confidential Information under the terms of a valid subpoena, decree, or order issued by a court or tribunal of competent jurisdiction, or by a governmental body pursuant to law or regulation, the Parties each hereby agree to promptly notify the other Party of the existence, terms, and circumstances surrounding the request or order and reasonably assist the Disclosing Party in seeking an appropriate protective order at Disclosing Party’s election, or waive the requirements of the confidentiality provisions of these GTCs. If, in the written opinion of a Party’s legal counsel, disclosure of Confidential Information of the other Party is required in order to avoid sanction or penalty, said counsel shall exercise reasonable efforts, with the cooperation of the other Party if necessary, to obtain an order or other reliable assurance that confidential treatment will be accorded to the disclosed Confidential Information of the other Party.
- (d) Upon termination of these GTCs or upon demand, the Receiving Party shall, at the Disclosing Party’s option, (i) return the Disclosing Party’s Confidential Information to the Disclosing Party, or (ii) destroy the Disclosing Party’s Confidential Information and all copies and reproductions thereof and certify that all such Confidential Information has been destroyed and is no longer useable or retrievable in any format.

6.2 Intellectual Property Rights.

- (a) For purposes of this Section 6.2 (and as the term is otherwise used or referenced in these GTCs), “Intellectual Property” means all copyrights, patents, trade secrets, proprietary software or firmware, or other Intellectual Property rights associated with or incorporated in any ideas, concepts, know-how, techniques, processes, reports, or works of authorship owned, developed or created by a Party, and expressly includes, as to Company, any of the foregoing used or included in any Work .
- (b) Unless the Parties have otherwise agreed in writing, a Party’s Intellectual Property (and any development, enhancement, improvement, or derivative thereof, regardless of inventorship) shall be and remain the property of that Party. To the extent any Intellectual Property of a Party (and/or any enhancement, improvement, or derivative thereof) is incorporated into the Work provided to Customer, that Party grants the other Party only a non-exclusive, non-transferrable, non-sub-licensable, revocable, royalty-free, right and license to use such Intellectual Property incorporated into the Work solely for the purpose of using such Work. Except as expressly stated herein, neither Company nor Customer shall have any right or license to use, whether directly or indirectly, any of the other’s Intellectual Property.
- (c) Although it is not the intention of the Parties to jointly develop Intellectual Property in conjunction with the design, fabrication, manufacture, or production of Equipment sold or Services provided to Customer under these GTCs or any Order, if either Party or their respective employees jointly develop any Intellectual Property that is not an enhancement, improvement, or derivation of either Party’s Intellectual Property (“Joint IP”), the Joint IP shall be owned by Company, regardless of inventorship. Company hereby grants Customer, a revocable, non-exclusive, non-sub-licensable, non-transferrable, royalty free, right and license to use the Joint IP incorporated into the Work solely for the purpose of using such Work.

- 6.3 **Disassembly of Equipment.** Except to the extent necessary for the maintenance or repair thereof, Customer shall not (and shall not direct nor permit any Third Party to) disassemble any Equipment, or decompile, analyze, or otherwise seek to reverse engineer the Equipment purchased (or any component part thereof).

6.4 **Injunctive Relief.** The Parties agree that money damages are not a sufficient remedy for any breach or threatened breach of this Article 6. Accordingly, each Party is entitled to seek specific performance, injunctive, or other equitable relief to enforce the provisions of this Article 6, without the necessity of posting bond and without waiving any other remedies at law or in equity. In the event of such an action, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs of litigation.

6.5 **Data Security.** Customer shall: (a) establish, implement and maintain reasonable safeguards against the destruction, loss, alteration and unauthorized access and use of the Company's Confidential Information in the possession or control of Customer (or its subcontractors) that are no less rigorous than those maintained by Customer for its own data of a similar nature; and (b) comply with Company's information and data security policies as disclosed to Supplier from time to time.

7. **INSURANCE**

7.1 **Insurance in Support of Indemnities.** In support of their respective indemnity obligations under the terms and provisions of these GTCs, and not as an obligation separate or independent therefrom, Customer and Company each agree to procure and to maintain throughout the Term, at its sole expense, policies of insurance of the types described, and in coverage amounts not less than the minimum limits specified below:

- i. Workers' Compensation Insurance in accordance with statutory requirements of the state where the Party is operating, and Employers' Liability Insurance with limits of not less than:

Bodily Injury by Accident	\$1,000,000	Each Accident
Bodily Injury by Disease	\$1,000,000	Policy Limit
Bodily Injury by Disease	\$1,000,000	Each Employee

All workplace locations where the Party operates should be covered.
- ii. Commercial General Liability Insurance, written on an occurrence basis, with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate Bodily Injury and Property Damage.
- iii. Comprehensive Automobile Liability Insurance covering hired and non-owned vehicles with limits of \$1,000,000 per occurrence and Bodily Injury and Property Damage combined single limits.
- iv. Umbrella Liability Insurance with limits of \$5,000,000. The Umbrella Liability Insurance would be in excess of the Commercial General Liability and Comprehensive Automobile Liability Insurance coverage.

It is understood and agreed that the insurance coverages specified in this Section 7.1 are minimum requirements and are not to be construed to void or limit the indemnities contained herein. Neither do such minimum requirements represent any limitation upon the insurance coverage(s) either Party may elect to provide. The above limits may be met by any combination of primary and excess coverages.

7.2 **Certificates of Insurance.** None of a Party's insurance policies shall be cancelled or materially modified or amended without advance written notice to the other Party. Notice of cancellation of any of the insurance policies required by the provisions of Section 7.1 above shall be subject to ACCORD 25 Certificate of Liability standards and will be delivered in accordance with policy provisions. Upon request, each Party shall deliver to the other Party certificates of insurance showing that the insurance policies are in full force and effect.

7.3 **Additional Insureds; Waiver of Subrogation.** To the extent of their express obligations to indemnify the other Party under these GTCs and all related Orders thereto, each Party shall arrange for any of their respective insurance policies covering or supporting their indemnity obligations under these GTCs to contain provisions whereby their insurers (a) waive their rights of subrogation against the other Party Group (Customer Group or Company Group), and the other Party's respective insurers and (b) name the other Party (and member(s) of its Group) as an additional insured under its insurance policies (except Workers Compensation and Employer's Liability).

8. **LAWS AND REGULATIONS**

8.1 **Trade Compliance.**

- (a) Each Party agrees to comply with all Applicable Laws (including import, export, export control, antiboycott, and sanctions laws) and shall not, directly or indirectly, sell, provide access to, export, re-export, transfer, divert, loan, lease, consign, transship (including a stop in port), transport, or otherwise dispose of any Work, material, software (including source code), or technology to, via, or for (i) any entity known to be headquartered in, or owned or controlled by a national of any country subject to comprehensive sanctions applicable to Company, (ii) any other individual or entity identified on a denied or restricted party list applicable to Company, or (iii) any activity or end-

use restricted by Applicable Laws without first obtaining all required government authorizations and written permission of the other Party.

- (b) **Notwithstanding anything to the contrary in these GTCs, neither Party shall be required to take any action prohibited or penalized by, or to refrain from taking any action required under, the laws of any applicable domestic or foreign jurisdiction relating to international boycotts.**
- (c) Either Party shall have the right, in its sole discretion, to immediately suspend performance or to terminate these GTCs or any Order if (i) applicable comprehensive sanctions are imposed, or (ii) the other Party is designated as or determined to be a denied or restricted party under Applicable Law.

8.2 **Ethics and Anticorruption.** Each Party agrees, on behalf of itself and its Party Group, to comply with the U.S. Foreign Corrupt Practices Act of 1977 and any Applicable Laws related to anti-bribery, anti-corruption, anti-kickbacks, and anti-money laundering. Neither Party shall make any facilitating payments with regards to the Work.

8.3 **Termination and Indemnification.** Failure of either Party to comply with the provisions of this Article 8 shall be grounds for immediate termination of these GTCs or any Order. Additionally, if a Party is required by the other Party to engage in any act that violates this Article 8, that Party may immediately terminate these GTCs or any Order and will not be in breach or default. Each Party agrees to indemnify the other Party for all Claims arising from its violation of this Article.

9. **ASSIGNMENT AND SUBCONTRACTING**

Company may assign these GTCs (or any rights and interests herein) to an Affiliate, or subcontract the manufacture of the Equipment (or any portion thereof) and/or the provision of Services under any Order, but Company shall not assign these GTCs to any Third Party without the prior written consent of Customer, which consent shall not be unreasonably withheld, conditioned, or delayed. Neither these GTCs nor any rights or interest herein shall be assigned by Customer without the prior written consent of Company, which consent shall not be unreasonably withheld, conditioned, or delayed. Subject to the foregoing, these GTCs shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assignees.

10. **FORCE MAJEURE**

Except for the duty to make payments hereunder when due, and the indemnification and insurance provisions under these GTCs, neither Party shall be considered in breach of these GTCs if prevented from performing due to an event of Force Majeure. If any period of Force Majeure preventing performance continues for more than thirty (30) days, either Party may terminate the affected Order by giving five (5) days written notice to the other Party. Company shall be paid for all Equipment provided and/or produced or manufactured to the date of termination, all Services provided to the date of termination, and any other reasonable costs incurred as a result of such termination (including Company's standard termination and/or restocking charges). In allocating the risk of delay or failure of performance of their respective obligations under these GTCs by reason of an event of Force Majeure, the Parties have not taken into account the possible occurrence of any particular acts or events beyond their control, irrespective of whether such acts or events were foreseeable as of these GTCs.

11. **NOTICES**

All notices, notifications, requests, consents, directions, instructions, and other communications required or permitted to be given under these GTCs ("**Notices**") shall be in writing and shall be deemed to have been duly given if delivered (a) in person, by courier or by overnight delivery service, with independent proof of delivery, or (b) via confirmed email. Unless otherwise specified herein (such as Notices to be delivered to a Party's representative), Notices shall be addressed to the Party at the physical or email address set forth in the preamble of these GTCs (or to such other physical or email address(es) and to the attention of such other Person(s) as either Party may designate by Notice given in accordance with the foregoing requirements).

12. **GOVERNING LAW; VENUE; JURY WAIVER; ATTORNEYS' FEES**

12.1 **Governing Law and Venue.** These GTCs and all Orders shall be governed, construed, and interpreted in accordance with the laws of the State of Texas, which shall apply without regard to any choice of laws or conflict of laws provisions which would direct the application of the laws of another jurisdiction. Venue for any litigation filed with respect to these GTCs or any Order (or the Work sold thereunder) shall be exclusive in the courts, state or federal, sitting in Houston, Harris County, Texas.

12.2 **JURY WAIVER. TO THE EXTENT ALLOWED BY THE GOVERNING LAW, EACH PARTY HEREBY WAIVES ALL RIGHTS TO A JURY TRIAL WITH RESPECT TO ANY LITIGATION INVOLVING THESE GTCs OR ANY ORDER.** Nothing herein shall prohibit a Party from availing itself of a court of competent jurisdiction for the purpose of injunctive relief.

12.3 **Attorneys' Fees.** In the event either Party institutes suit to enforce any right or obligation against the other arising from or incidental to these GTCs and/or any Order, the prevailing Party shall be entitled to recover, in addition to any damages or other relief awarded to it, reasonable attorneys' fees, court costs, fees of testifying experts or consultants, and other expenses related thereto.

13. **SEVERABILITY**

If any term or provision of these GTCs is found to be inconsistent with or contrary to Applicable Law or public policy, same shall be deemed to be modified to the extent required to comply with Applicable Law or public policy (it being the intention of the Parties to enforce to the fullest extent all terms of these GTCs) and as so modified, these GTCs shall continue in full force and effect. In the event such term or provision cannot be deemed modified automatically, the Parties shall attempt to reach agreement on a conforming modification to such term or provision. In the event any such term or provision cannot be modified to comply with Applicable Law, then said term or provision shall be deemed to be deleted from the Agreement and the remaining terms and conditions shall remain in full force and effect.

14. **SURVIVAL**

The provisions of Articles 12 and 13, and all obligations pertaining to taxes, warranties, indemnification, and confidentiality, and all other provisions that by their nature extend beyond the termination or expiration of these GTCs, shall survive such expiration or termination of that or any Order.

15. **ENTIRE AGREEMENT; HEADINGS; NO ORAL MODIFICATION; COUNTERPART EXECUTION**

These GTCs, together with an Order, embody the entire agreement between the Parties with respect to Company's sale of Equipment and provision of Services to Customer and supersede and replace all other agreements existing between Company and Customer with respect to transactions for Equipment and/or Services. Neither of the Parties shall be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter of these GTCs other than as expressly provided herein. The Article and Section headings contained in these GTCs are for reference purposes only and shall not affect in any way the meaning or interpretation of these GTCs. No amendments or modifications shall be effective unless in a writing signed by an authorized officer of each Party.

16. **WAIVER OF TERMS**

No waiver by a Party of any of the terms, provisions, or conditions hereof shall be effective unless said waiver shall be in a writing signed by an authorized officer of the Party against whom the waiver is sought to be enforced. The failure of either Party to enforce any term, provision, or condition of these GTCs shall in no manner affect the right to enforce the same at a later time, and the waiver by either Party of any breach of any term, provision, or condition in these GTCs shall not be construed to be a waiver by such Party of any subsequent or succeeding breach of such term, provision, or condition or a waiver by such Party of any breach of any other term, provision, or condition.

17. **NO 'WRAP' AGREEMENTS/NO AUTHORITY TO BIND**

Company's clicking any buttons or any similar action, such as clicking "I Agree" or "Confirm," to utilize Customer's software or webpage for the placement of orders, is NOT an agreement to Customer's Terms and Conditions. **NO EMPLOYEE, AGENT OR REPRESENTATIVE OF COMPANY HAS THE AUTHORITY TO BIND COMPANY BY THE ACT OF CLICKING ANY BUTTON OR SIMILAR ACTION ON CUSTOMER'S WEBSITE OR PORTAL.**

18. **NON-DISPARAGEMENT.**

During the term of the Agreement and thereafter, Customer shall not make or publish any disparaging or derogatory statements with respect to Company, or its integrity, business or professional standing or reputation, or that of any of its Affiliates or representatives.