

## Sales Terms and Conditions E201

### 1. **Agreement.**

- 1.1. **Agreement.** These Sales Terms and Conditions E201 (“Terms”) have been incorporated by reference into a quotation, sales confirmation, sales order, contract, agreement or other written instrument issued or signed by an authorized employee of Seller (each, a “Sale Document”) regarding the sale of products (“Products”) and provision of related services (“Services”). These Terms and the Sale Document issued by Seller to Buyer shall be collectively referred to herein as the “Agreement.”
- 1.2. **Precedence.** In the event of any conflict between the terms of a Sale Document and these Terms, the terms and conditions of these Terms shall take precedence.
- 1.3. **Entire Agreement.** The Agreement, including any attachments, exhibits, Internet links or other written documents that are explicitly incorporated by reference in the text of the Agreement, constitutes the entire agreement between Seller and Buyer regarding the subject matter of the Agreement and may not be modified except in a writing signed by a duly authorized employee of Seller and Buyer.
- 1.4. **Buyer Documents.** Seller shall not be bound by the terms and conditions of any purchase order, order confirmation, acceptance or other instrument issued by Buyer (each, a “Buyer Document”), unless such Buyer Document is counter-signed by an authorized employee of Seller. Seller’s performance under the Agreement shall not, under any circumstances, be deemed Seller’s acceptance of any of the terms and conditions contained in a Buyer Document. If Buyer issues a Buyer Document to procure the Products described in a Sale Document, then such issuance shall be deemed to constitute Buyer’s acceptance of the terms and conditions of this Agreement, but all other terms and conditions contained in the Buyer Document shall be of no force or effect and shall not be deemed to supersede, replace, modify, augment, enhance, delete, remove, amend or otherwise alter any of the terms and conditions of this Agreement. Acceptance of or payment for any of the Products or Services shall also be deemed to constitute Buyer’s acceptance of all of the terms and conditions of this Agreement.

### 2. **Products and Services.**

- 2.1. **Products.** Buyer agrees to purchase from Seller and Seller agrees to sell the Products to Buyer in accordance with the terms and conditions of this Agreement.
- 2.2. **Services.** The term “Services” means any (i) service plan (e.g., platinum, gold, silver, preventative maintenance, depot/return-to-base), (ii) sale or delivery of supplies, parts, consumables, accessories or components, (iii) operator training, service training, image analysis training, online, classroom or hands-on training, or any other training course, (iv) equipment loans, (v) de-installation and/or system move services, (vi) radiation survey services, (vii) testing services or (viii) post- or out-of-warranty maintenance, repair or related services. The provision of Services is subject to Service Terms and Conditions E502 (the “Service Terms”), available at [www.rapiscansystems.com/termsandconditions](http://www.rapiscansystems.com/termsandconditions).

### 3. **Delivery and Acceptance.**

- 3.1. **Delivery and Risk of Loss; Title.** Unless otherwise provided in the applicable Sale Document, all Products shall be delivered Free Carrier (FCA) (Incoterms 2020) at Seller’s manufacturing location. Title and risk of loss or damage to Products pass to Buyer at such location.
- 3.2. **Dates.** Seller’s delivery and performance dates are estimates only. Seller will use commercially reasonable efforts to deliver in accordance with the delivery or performance dates specified in the Sale Document, but may change those dates as it deems necessary. Seller shall not be liable for failure to deliver or perform by such dates.
- 3.3. **Acceptance.** All Products and Services shall be deemed accepted by Buyer upon delivery, in the case of Products, or upon performance, in the case of Services.

### 4. **Testing and Installation.** If testing (e.g., factory acceptance testing, site acceptance testing) and installation is included in a Sale Document, Seller shall perform such testing and installation in accordance with Seller’s standard testing and installation procedures for the Products in effect on the date of testing/installation.

### 5. **Warranty.**

- 5.1. **Product Warranty.** Seller warrants to Buyer (and to no other party) that that the Product(s) shall conform substantially to Seller’s then-current applicable specifications for the Product(s) (“Product Warranty”).
- 5.2. **Product Warranty Period.** Unless otherwise agreed in the Sale Document, the Product Warranty expires on the earlier of: (i) 13 months from the date the Product is shipped to Buyer (or, in the event that Buyer

requests a delay in shipment, from the date the Product was ready for shipment to Buyer) and (ii) 12 months from the date of installation of the Product (or, in the event that Buyer causes or requests a delay in installation, from the date Seller was ready to install the Product). Supplies, accessories, parts, consumables and used/refurbished Products shall be free from defects in material and workmanship for a period of 90 days from delivery. Buyer must report to Seller in writing all Product Warranty claims within the relevant warranty period. Defects in a repaired or replaced Product or part shall be covered to the extent of the unexpired term of the applicable warranty period.

- 5.3. **Limitations.** The Product Warranty set forth above shall not apply if (i) Seller is unable to reproduce the defect or error reported by Buyer; (ii) Buyer has failed to use the Product in accordance with Seller's manuals, instructions and/or other procedures that Seller has made available to Buyer or that it makes available to purchasers of the Product generally; (iii) Buyer has failed to report a defect or error within ten (10) days of its first occurrence and in accordance with the procedures established by Seller to identify and report such problems to Seller's Customer Service Department; (iv) a Product (other than mobile-type inspection systems) has been moved, without Seller's written consent, from its original installation location (note that prior to the performance of on-site, in-warranty labor for mobile-type inspection systems, Seller may require that Buyer deliver the system to a location that Seller deems logistically convenient for repair); (v) the area in which the Product is located is not, in Seller's opinion, a safe and clean operating environment; (vi) Seller is not granted prompt access to the Product upon arrival of Seller's service engineer; (vii) the Product has been installed, repaired or modified without Seller's prior written consent (e.g., by a technician that is not, at the time of such modification, certified by Seller's Customer Service Department to perform such work); (viii) parts (including consumable parts) that have not been authorized for use by Seller's Customer Service Department have been installed on or used with the Product; (ix) the Product has been damaged by neglect, misuse, mishandling, failure of electrical power, user error, liquids, or as a result of any other cause external to the Product; (x) the Product was damaged during shipment from Buyer to a Seller repair facility or location; (xi) Buyer is requesting a password re-set; (xii) Buyer has failed to timely pay, in whole or in part, any invoice issued by Seller; or (xiii) Buyer is in breach of the Agreement or any other agreement between Buyer and Seller (this statement shall not be construed to limit any other rights or remedies available to Seller for any such breach).
- 5.4. **Exclusive Remedies.** With respect to any breach of Section 5.1 (Product Warranty), Buyer's sole and exclusive remedies, and Seller's entire liability, shall be as follows:
- 5.4.1. **On-Site Repair.** Except as set forth in Sections 5.4.2 (Return-to-Factory Repair) and 5.4.3 (Parts Only Replacement), Seller shall attempt to correct the error or defect that caused the breach of Product Warranty or, if Seller is unable to make the Product operate as warranted, shall replace the defective Product or return the purchase price (at Seller's election). Note that for mobile-type inspection systems, Seller may require that Buyer deliver the system to a location that Seller deems logistically convenient for repair.
- 5.4.2. **Return-to-Factory Repair.** With respect to (i) MINI-Z and (ii) Trace Detection Products, as well as (iii) handheld, backpack and field collection models of Radiation Detection Products, Seller shall provide Return-to-Factory (sometimes also referred to as "Depot Return" or "Return-to-Base") Services to correct the error or defect that caused the breach of warranty or, if Seller is unable to make the Product operate as warranted, the replacement of the defective Product or return of the purchase price (at Seller's election). "Return-to-Factory" Services consists of remedial maintenance performed at a Seller-authorized service facility to repair the Product and shall include the furnishing of necessary replacement parts except for consumables. Buyer shall contact Seller's Customer Service Department and if Seller determines that the Product is entitled to repair or replacement, Seller shall issue return materials authorization (RMA) documentation to Buyer and Buyer shall then take the following actions:
- 5.4.2.1. **Equipment with Radioactive Source.** For Trace Detection Products that utilize a radioactive source, Seller's RMA documentation shall provide Buyer with the contact information for a Seller-authorized service firm or technician who will provide instructions and assistance required to ship such Product to Seller's facility in accordance with applicable regulations for the safe transportation of radioactive materials.
- 5.4.2.2. **Equipment without Radioactive Source.** For Products that do not utilize a radioactive source, Buyer shall ship such Product DDP (Incoterms 2020) to Seller's facility set forth in the RMA, accompanied by such RMA documentation.

In the event that the Product was originally sold to Buyer with a protective case, Buyer must ship the Product in its original, protective case. (Buyer shall purchase a replacement case from Seller if Buyer no longer has a case or if its case has become damaged.) Seller shall use commercially reasonable efforts to repair returned trace detection Products, but Seller shall not be responsible for repairing (or

may charge additional amounts) for repairing Products that have been damaged during shipment to the Seller repair facility or that are delivered to the Seller repair facility without all required RMA documentation. In addition, if, upon delivery to the Seller repair facility the trace detection Product is found in good working order, Seller shall be entitled to charge Buyer for all shipping and handling expenses incurred by Seller in connection with returning the Product, plus a fee of 20% of the original Product price (for testing and re-stocking). Following repair, Seller shall return the trace detection Product to Buyer. Return delivery shall be made by ground transportation DDP (Incoterms 2020), and Buyer shall be responsible for re-installing the repaired Product. If Buyer requests expedited return delivery (e.g., by air), Seller shall be entitled to invoice Buyer for all return shipping and handling expenses.

5.4.3. **Parts Only Replacement.** With respect to (i) Gatekeeper and (ii) Metor Products, as well as (iii) Radiation Detection Products (other than those models of Radiation Detection Products listed in Section 5.4.2 (Return-to-Factory Repair) above), Seller shall provide Buyer with replacement parts to the extent such replacement parts are required to correct the error or defect that caused the breach of warranty or, if Seller is unable to provide such replacement parts, the replacement of the defective Product or return of the purchase price (at Seller's election).

5.4.3.1. **Return Materials Authorization.** Buyer shall contact Seller's Customer Service Department and if Seller determines that a part of a Gatekeeper, Metor or Radiation Detection Product is entitled to repair or replacement, Seller shall issue to Buyer RMA documentation. Following the issuance of RMA documentation, Seller shall deliver to Buyer a replacement part. Delivery shall be Delivery Duty Paid (DDP) (Incoterms 2020) Buyer's location. Upon receipt, Buyer shall carefully remove the non-working part and then, within two business days of its arrival at Buyer's location, use the same packaging to return the non-working part to Seller. Delivery shall be made DDP (Incoterms 2020) to the Seller address as set forth in the RMA documentation. Buyer shall be responsible for installing the replacement part. If the non-working part is not returned to Seller within five business days of the delivery to Buyer of the replacement part, Seller shall be entitled to invoice Buyer for the replacement part at Seller's then-current parts pricing. In addition, if, upon return to Seller the part is found in good working order, Seller shall be entitled to charge Buyer for all shipping and handling expenses incurred by Seller in connection with delivering the replacement part, plus a fee of 20% of the part price (for testing and re-stocking).

5.4.3.2. **Use of Certified Technicians.** Buyer shall be responsible for obtaining the services of a Seller-certified technician to remove defective parts, install replacement parts, and perform all other related warranty service work. If any service is performed or attempted by an individual that is not, at the time that service is performed, certified by Seller's Customer Service Department to perform such work, then Seller shall no longer have any further warranty obligations with respect to such Product (see Section 5.3(vii)). Buyer acknowledges and agrees that Seller-certified service technicians that are not, at the time of the performance of service, the employees of Seller, are not the agents or partners of Seller. Such service technicians (including their employers) have no right or authority, express or implied, to assume or create any obligation of any kind on behalf of Seller, to make any representation or warranty on behalf of Seller or to bind Seller in any respect whatsoever. If any dispute of any kind (whether based in contract, tort or otherwise) arises between Buyer and such service technician (or between Buyer and the employer of such service technician), Buyer acknowledges and agrees that it shall look exclusively to such service technician (and the employer of such service technician, if appropriate) for all remedies to such dispute and shall have no right to pursue Seller in connection with such dispute.

5.5. **Disclaimer of Warranties.** EXCEPT AS SET FORTH IN THIS SECTION 5, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SELLER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT, AND WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE OR SAMPLES SUPPLIED. SELLER DOES NOT WARRANT THAT THE PRODUCTS WILL OPERATE AS REQUIRED WITHOUT INTERRUPTION, DELAY OR ERROR. SELLER DOES NOT WARRANT ANY "UP-TIME" OR "DOWN-TIME" OF THE EQUIPMENT.

6. **Variations.** The Products and Services covered by this Agreement are those specifically set forth in the Sale Document. If Buyer requests, and Seller agrees to make, engineering changes to Products, or any other variations to Products or if Buyer requests, and Seller agrees to perform any additional services not specifically set forth in

the Sale Document (any of the foregoing, a "Variation"), such Variation(s) shall be separately billable by Seller to Buyer. Pricing for Variations shall be determined by Seller in its sole discretion, but generally will be established by reference to Seller's then-current time and materials engineering and/or service rates (as applicable) in effect for the region in which the engineering work or the services are performed and shall also include the cost of any additional materials, parts or components, shipping, travel, lodging and meals, administrative and any other expenses or amounts incurred by Seller to accommodate and perform the Variation(s). The term "Variation" includes, but is by no means limited to, performance of services outside of Seller's regularly-scheduled business hours and performance of any services excluded under Section 5.2 (Limitations).

7. **Software License.** Seller grants to Buyer a license to use the software that has been installed by Seller on the Products ("Software"), together with new versions or updates to such Software made available by Seller to Buyer, in object code form only and subject to the terms of Software License Agreement G306 (available at <http://www.rapiscansystems.com/termsandconditions>) and incorporated herein by reference.
8. **Alert Technologies.** Products covered by this Agreement may incorporate technologies, including software and algorithms, that alert operators when contraband materials may be present ("Alert Technologies"). Buyer acknowledges that although Alert Technologies enhance the overall probability of detection when they are applied over the course of many inspections, they should not be relied upon as the sole method of evaluating any individual scan. Several factors can limit the sensitivity and effectiveness of Alert Technologies, particularly in the context of an individual scan. For example, performance may be negatively affected by the type, size, and quantity of contraband; environmental conditions at the inspection site; Product cleanliness, maintenance, and repair status; operator performance; concealment techniques used to avoid detection; and the false positive/negative and other configuration settings selected for the Alert Technology itself. **SELLER DOES NOT WARRANT OR OTHERWISE GUARANTEE THE PERFORMANCE OF ALERT TECHNOLOGIES AND BUYER AGREES THAT SELLER SHALL NOT BE LIABLE SHOULD ANY ALERT TECHNOLOGIES FAIL TO SIGNAL THE PRESENCE OF CONTRABAND.**
9. **Confidentiality.**
  - 9.1. **Confidential Information.** By virtue of this Agreement, the parties may have access to information that is confidential to the other. For purposes of this Agreement, the term "Confidential Information" shall mean the Product and Service pricing under this Agreement (unless disclosed in accordance with Section 16.4 (Marketing Rights)) and all information clearly identified at the time of its original disclosure in writing as confidential. A party's Confidential Information shall not be deemed to include information that: (i) is or becomes generally known to the public through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure or (iv) is independently developed by the other party without use of or reference to the disclosing party's Confidential Information.
  - 9.2. **Restrictions on Disclosure and Use.** Each party agrees to hold the other party's Confidential Information in strict confidence. Each party agrees, unless required by law, not to make the other party's Confidential Information available in any form to any third party for any purpose and to treat Confidential Information of the other party with the same degree of care with which it would treat its own confidential information of a like nature, and in no case with less than a reasonable degree of care. Each party agrees not to use the other party's Confidential Information for any purpose other than the performance of this Agreement. Each party agrees to limit the disclosure of Confidential Information to those of its officers, directors, employees, consultants, attorneys and other professional advisors who (i) have a need to know and (ii) are subject to an ongoing legal obligation to maintain all Confidential Information on terms at least as restrictive as those contained in this Agreement. Each party agrees to ensure full compliance with the terms of this Agreement by all such parties to whom it provides Confidential Information. It will not be a breach of this Section if Confidential Information is disclosed pursuant to a subpoena or other compulsory judicial or administrative process, provided the party served with such process promptly notifies the other party and provides reasonable assistance so that the other party may seek a protective order against public disclosure.
  - 9.3. **Other Confidentiality Agreements.** Notwithstanding Sections 9.1 and 9.2 immediately above, if Seller and Buyer have entered into a separate confidentiality or non-disclosure agreement designed to protect the Confidential Information of either party that is expected to be transmitted under or in connection with the performance of this Agreement, then the terms of Sections 9.1 and 9.2 immediately above shall not be deemed to supersede, replace, modify, augment, enhance, delete, remove, amend or otherwise alter any of the terms and conditions of such separate agreement, which agreement shall remain in full force and effect and which agreement shall be deemed to supersede Sections 9.1 and 9.2 immediately above.
10. **Price and Payment.**

- 10.1. **Price.** The price(s) for Products and Services covered by this Agreement are those prices set forth in the Sale Document or, if there are no prices are set forth therein, then the prices shall be as set forth on Seller's then-current applicable standard price list applicable to Buyer under Seller's sales policies.
- 10.2. **Charges.** All amounts charged by Seller under this Agreement shall be due on the earlier of (i) the date(s) specified in the Sale Document and (ii) 30 days after the date of Seller's invoice therefore. All amounts past due shall incur a late payment charge that shall accrue at the rate of 4% per year above the Bank of England's base rate from time to time, but at 4% per year for any period when that base rate is below 0%, calculated from the date due until such amount is paid.
- 10.3. **Currency.** Buyer shall pay all amounts due in U.S. dollars, unless otherwise provided in the applicable Sale Document.
- 10.4. **Taxes.** Buyer shall, in addition to any other amounts payable under this Agreement, pay all sales, use, VAT, duties, excise or other taxes (and all interest and penalties) applicable to the sale, installation, importation, transportation or use of the Products and performance of the Services hereunder (other than amounts due on Seller's net income from such sale or use).
- 10.5. **Security Interest.** Buyer hereby grants to Seller a security interest in all Products, and in any proceeds thereof, including insurance proceeds, to secure payment of all amounts due under this Agreement until such amounts are paid in full. Buyer shall not, without Seller's prior written consent, relocate, sell, lease, or create additional liens other than the security interest described herein over the Products until Buyer has paid for all such Products in full. If Buyer defaults under any obligation arising under or in connection with this Agreement, Seller may pursue all remedies of a secured creditor provided under the Uniform Commercial Code or other applicable law. Buyer agrees that Seller is entitled to file such financing statements and amendments thereto as Seller deems necessary to protect its interest in the Products and to effectuate the purposes of this Section 10. If Buyer defaults on any obligation arising under or related to this Agreement, Buyer shall make all Products available so that Seller may repossess them promptly and without breach of the peace. Upon Seller's request, Buyer covenants that it shall execute any and all documents requested by Seller to perfect Seller's security interest in any or all of the Products.
- 10.6. **Notice of Payment Dispute.** Subject to applicable law, if Buyer intends to dispute any amount due under or related to this Agreement, Buyer must notify Seller in writing within 30 days of the date such payment is originally due. Buyer waives its right to dispute such amounts or to bring or participate in any legal action involving a dispute of such amounts if not reported within such period.
11. **Cancellation/Delay.**
- 11.1. **No Cancellations or Delays by Buyer.** Buyer may not terminate, cancel, delay or reschedule any delivery of Products or performance of Services without Seller's written consent. Such consent may be granted or withheld in Seller's sole discretion. Such consent may be conditioned by Seller on, among other things, prompt payment by Buyer to Seller for direct or indirect amounts arising under or related to the cancellation, delay or rescheduling.
- 11.2. **Excusable Delay.** Seller shall not be responsible for any delay or non-performance of its obligations hereunder to the extent and for such periods of time as such delay or non-performance, defective performance or late performance is due to causes beyond its control. Excusable delays include, but are not limited to, acts of God, war, acts of any government in either its sovereign or contractual capacity (including delays or failures by any government to grant export licenses), fire, explosions, sabotage, the elements, epidemics, quarantine restrictions, strikes, lockout, embargoes, severe weather, delays in transportation, airline schedule, fuel shortages, or delays of suppliers or subcontractors.
- 11.3. **Cancellation by Seller.** Seller may terminate or cancel this Agreement, in whole or in part, at any time, with or without cause, by delivery of written notice to Buyer.
12. **Limitation of Liability.** NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY FOR: (I) DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE; (II) FRAUD OR FRAUDULENT MISREPRESENTATION; (III) BREACH OF THE TERMS IMPLIED BY SECTION 12 OF THE SALE OF GOODS ACT 1979; OR (IV) ANY OTHER LIABILITY AND/OR OBLIGATION WHICH CANNOT BE LIMITED OR EXCLUDED BY THE LAWS OF ENGLAND AND WALES. SUBJECT TO THE FOREGOING, SELLER'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL PRICE ACTUALLY PAID BY BUYER FOR THE PRODUCTS COVERED BY THE AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 12 AND IN THE OTHER PROVISIONS OF THE AGREEMENT AND THE ALLOCATION OF RISK HEREIN ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN the PARTIES, WITHOUT WHICH SELLER WOULD

**NOT HAVE ENTERED INTO THE AGREEMENT. SELLER'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.**

13. **No Indirect or Consequential Damages.** SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, USE OR COST OF SUBSTITUTE PROCUREMENT, INCURRED BY BUYER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE.
14. **Reciprocal Waiver of Claims.** As the Products and Services may be deployed in defense against or to assist in the detection of an Act of Terrorism (as such term is defined under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002) before it occurs, Seller and Buyer each agree to waive all claims against the other (including those of or against their officers, directors, employees, subsidiaries, affiliates, agents, subcontractors or other representatives) for losses, including business operation losses, resulting from or related to such Act of Terrorism.
15. **Indemnification.** Buyer shall indemnify and hold harmless, and at Seller's request defend, Seller and its subsidiaries and affiliates (and its and their officers, directors, shareholders, managers, employees and agents) from and against any and all demands, claims, actions, losses, liabilities, damages, settlements, expenses and costs (including, without limitation, attorneys' fees and court costs) which arise out of or relate to (i) any breach (or claim or threat thereof that, if true, would be a breach) of this Agreement by Buyer, including, without limitation, any breach or alleged breach of any representation or warranty of Buyer, (ii) any negligence or intentional misconduct of Buyer or any officer, director, employee or agent of Buyer or (iii) the negligence or intentional misconduct of any operator (or supervisor(s) of any operator) of any Product.
16. **Miscellaneous Provisions.**
  - 16.1. **Independent Contractors.** Each of Seller and Buyer is an independent contractor and neither party's personnel are employees or agents of the other party. The Agreement shall not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties; the parties shall at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.
  - 16.2. **No Third Party Beneficiaries.** It is not the intention of the parties to confer a third party beneficiary right of action upon any third party or entity whatsoever, and nothing in this Agreement will be construed to confer upon any third party other than the parties hereto a right of action under this Agreement or in any manner whatsoever. Specifically, unless expressly stated, this Agreement does not give rise under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
  - 16.3. **Proprietary Rights.** Seller retains all rights, title and interest in and to the Intellectual Property Rights in the Products and any derivative works thereof. Buyer does not acquire any other rights, express or implied, in the Products. "Intellectual Property Rights" means patent, copyright, trademark, trade secret and any other intellectual property rights. Buyer acquires no rights in Seller Confidential Information (as defined in Section 9.1).
  - 16.4. **Marketing Rights.** Seller shall have an unfettered right to issue a press release regarding the sale of Products and provision of Services covered by this Agreement, including disclosing the purchase price, the Products and Services covered, Buyer's name and location, and any other information deemed appropriate in Seller's sole discretion. Such disclosure(s), if made by Seller, shall not be deemed a breach of Section 9 (Confidentiality). Buyer also consents to the use of its name, the location of the Products, the dates on which Products were installed, images of the Products at such location(s) and any other information that Seller deems desirable for the purposes of marketing the Products to other customers and potential customers (collectively, "Information"). Buyer acknowledges and agrees that Seller's use of the Information (including images) is unrestricted and therefore may be published for any purpose whatsoever and in any media and in any manner throughout the world, including, without limitation, reproduction, distribution, modification and public performance and display of any works that incorporate the Information, including on Internet websites, on television, on radio, in data sheets, pamphlets, and brochures.
  - 16.5. **No Buyer Press Release.** Buyer shall issue no press release or other public statement of any kind regarding the Products, Services or terms of this Agreement without Seller's express written consent.
  - 16.6. **Notice.** Any notice (other than routine reports regarding Product delivery and performance) required or permitted hereunder shall be in writing, shall reference this Agreement and shall be deemed to be properly

given: (i) when delivered personally; (ii) two days after deposit with a private industry express courier, for next day delivery, with written confirmation of delivery; or (iii) four days after having been sent by registered or certified mail, return receipt requested, postage prepaid. All notices sent by Seller shall be sent to the address to which Seller regularly invoices Buyer or, at Seller's election, to Buyer's address set forth in the Sale Document. All notices sent by Buyer shall be sent to the Seller address set forth in the Sale Document, ATTN: VP Sales, with a copy to VP Finance at the same address, or to such other address or person as may be designated by Seller by giving written notice to Buyer pursuant to this Section.

- 16.7. **No Assignment.** Buyer shall not be permitted to assign this Agreement, by operation of law or otherwise, without the express written consent of Seller.
- 16.8. **No Amendment.** This Agreement may not be modified or amended except pursuant to a writing, signed by a duly authorized officer of each of Seller and Buyer.
- 16.9. **No Solicitation; No Hire.** Following delivery of the Product(s) to be delivered to Buyer hereunder and for 12 months thereafter, Buyer agrees that it shall not, and will ensure that its agents and affiliates do not, directly or indirectly, hire or solicit or attempt to solicit for employment any persons employed by Seller or its affiliates or any party contracted by Seller to provide Services to Buyer.
- 16.10. **Remedies.** The remedies described in various sections of the Agreement shall not be deemed the exclusive remedies available to Seller and Seller shall, in addition to all such remedies, be entitled to all other remedies available to it under law.
- 16.11. **Governing Law.** The Agreement shall be construed in accordance with and governed by the laws of England and Wales. The Agreement shall not be governed by the U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, also excluded.
- 16.12. **Venue.** Except for matters of injunctive relief, for which either party may initiate proceedings in any court of competent jurisdiction, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be finally and exclusively determined by binding arbitration. The number of arbitrators shall be one. The place of the arbitration shall be London, England. If Buyer is headquartered in the United Kingdom, the arbitration shall be administered by the International Chamber of Commerce in accordance with its Rules of Arbitration. The Emergency Arbitrator Provisions shall not apply. If Buyer is headquartered outside of the United Kingdom, the arbitration shall be administered by the International Centre for Dispute Resolution in accordance with its International Rules. Judgment on the award rendered by the arbitration proceeding may be entered in any court of competent jurisdiction. Notwithstanding the foregoing, Seller shall have the right, but not the obligation, to undertake legal proceedings in a court of Buyer's domicile, main place of business or any other jurisdiction where Buyer has assets sufficient to meet its obligations under the disputed claim in whole or in part to (i) settle any issue or dispute arising out of or relating to monies due by Buyer to Seller; (ii) protect or enforce any patent, trademark, copyright or other intellectual property right, confidential information or trade secrets; or (iii) proceed in connection with a dispute commenced by a third party.
- 16.13. **Buyer's Credit.** Seller's performance under this Agreement shall at all times be subject to Seller's approval of Buyer's credit. Without limiting its other rights and remedies available under this Agreement or pursuant to law, Seller shall be permitted to suspend deliveries (required by the terms of the Agreement or under any other agreement between Seller and Buyer) and to suspend the performance of services (including the Services, warranty services or otherwise, and whether required by the terms of this Agreement or under any other agreement between Seller and Buyer) and shall be permitted to impose such other terms and conditions or security arrangements as Seller, in its sole discretion, deems appropriate to ensure full payment by Buyer for the Products and Services.
- 16.14. **Costs of Collection and Other Legal Fees.** Buyer shall reimburse Seller, upon demand, for all expenses incurred by Seller in collecting any amounts past due under this Agreement, including, without limitation, collection agency fees, attorneys' fees, and arbitration or court costs. If any legal action, including, without limitation, an action for arbitration or injunctive relief, is brought relating to this Agreement or the breach hereof, the prevailing party in any final judgment or arbitration award, or the non-dismissing party in the event of a voluntary dismissal by the party instituting the action, shall be entitled to the full amount of all expenses, including all court costs, arbitration fees and attorneys' fees paid or incurred.
- 16.15. **Export Administration.** Buyer acknowledges that export and re-export of the Products is subject to compliance with export control laws, including, but not limited to, the Export Administration Act, the Arms Export Control Act, the International Traffic in Arms Regulations (ITAR) and other export controls of the United States of America as amended from time to time, the Export Control Act 2002, the Export Control Order 2008, EU Regulation 428/2009 and the Customs and Excise Management Act 1979 and other export

controls of the United Kingdom as amended from time to time, and the Strategic Trade Act 2010 and other export controls of Malaysia as amended from time to time (collectively, the "Export Laws"). Buyer covenants that it shall complete, sign and deliver all documents necessary to facilitate the issuance of any export licenses required for any delivery, export and re-export of the Products and related technical data and documentation. In addition, Buyer covenants that it shall comply with all export-related instructions provided to it by Seller regarding the receipt, handling, use and storage of Products. Buyer shall not export or re-export any products, software, technical data, or documentation associated with the Products (including, but not limited to, processes, services, data, and reports derived from the use of the Products) to any country or person to which export or re-export of such items is prohibited by any of the Export Laws without first obtaining the written permission of Seller and from the U.S., U.K. and/or Malaysian government (as applicable). Seller shall have the right to delay shipments or terminate the Agreement, in whole or in part, and without liability, should Seller not obtain in a timely way all required export licenses and approvals necessary to export the Products. Shipment and delivery timing is also conditioned upon Buyer obtaining, and providing requested evidence to Seller of, all licenses, permits and other governmental authorizations required to receive, handle, use and store the Products (including all radiation producing parts, components or sources) that are required by the countries or local territories through which the Products (including all radiation producing parts, components or sources) may transit, be stored, operated or otherwise used. Buyer represents and warrants that its export privileges are not, and have not within the last five years been, denied, suspended or revoked in whole or in part by any government, including any agency or department of the U.S., U.K. or Malaysian government. Buyer further represents and warrants that its name (including any former name) and the name of any current or former director, officer or employee of Buyer, do not appear, and have not within the last five years appeared, on any lists maintained by the U.S., U.K. or Malaysian government identifying parties who are subject to export denial orders or who are otherwise restricted or prohibited by such governments from engaging in export transactions.

- 16.16. **Permits and Licenses.** Buyer shall be required to obtain and maintain all registrations, licenses, permits and/or approvals from relevant authorities, as may be necessary to store and operate the Products supplied by Seller.
- 16.17. **Disposal.** If Buyer elects to dispose of the Products, including any appurtenant components, parts and materials, Buyer covenants that it shall do so fully in accordance with all applicable laws and regulations regarding the disposal of such items.
- 16.18. **Suspended or Debarred Parties.** Buyer represents, warrants and covenants that it, including its consultants and agents and its and their officers, directors and employees, are not presently, and have not within the past five years, been debarred, suspended or proposed for debarment by any agency or department of the United States Government or otherwise declared ineligible by any agency or department of the United States Government for award of contracts or subcontracts. Buyer covenants that it shall provide Seller immediate written notice if Buyer, including any of its consultants or agents or any of its or their officers, directors or employees, hereafter become debarred, suspended or proposed for debarment by any agency or department of the United States Government or otherwise declared ineligible for award of contracts or subcontracts by any agency or department of the United States Government.
- 16.19. **No Waiver.** The waiver by either party of a breach of or a default under any provision of this Agreement shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.
- 16.20. **Severability.** If for any reason a court or arbiter of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effectuate the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.
- 16.21. **Construction.** The Agreement shall be interpreted fairly in accordance with its terms and without any construction in favor of or against either party.

[End of Terms]