UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING, ALL SALES ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

1. GENERAL. (a) The terms herein shall govern the sale of all Products hereunder, and no other terms or conditions contained herein shall be modified by any document or statement of Buyer unless in writing and signed by Seller. Buyer is hereby offered for sale to the buyer (“Buyer”) the products listed on the face hereof (the “Products”) on the express condition that Buyer agrees to accept and be bound by the terms and conditions set forth herein. Any provisions contained in any document issued by Buyer are expressly rejected and if any such document is not presented to Seller, then Buyer shall be deemed to have accepted and agreed to be bound by the provisions set forth herein. (b) The Products shall be sold “FOB” Seller’s shipping point and title shall pass to Buyer at such point. (c) All descriptions, specifications, rates, and prices contained herein are subject to change at any time without notice. All prices quoted by Seller or Seller’s representatives are valid for thirty (30) days, unless otherwise stated in writing. All prices for the Products will be as specified by Seller or, if no price has been specified, the price will be FOB Seller’s shipping point. Buyer will be liable for all taxes and duties imposed with respect to the sale, delivery, or use of any Products covered hereby, all of which taxes and duties are in addition to the purchase price specified herein and are not the result of any error or mistake in the calculation thereof. Buyer must provide a valid, signed certificate or letter of exemption for each respective jurisdiction.

4. TERMS OF PAYMENT. Seller may invoice Buyer upon shipment for the price and all other charges payable hereunder. If no payment terms are stated on the face hereof, payment shall be net thirty (30) days from the date of invoice. If Buyer fails to pay any amounts when due, Buyer shall pay interest thereon at a periodic rate of one and one-half percent (1.5%) per month (or, if lower, the maximum rate permitted by law), together with all costs and expenses (including without limitation attorneys’ fees and disbursements and court costs) incurred by Seller in collecting such overdue amounts or otherwise enforcing Seller’s rights hereunder. Seller reserves the right to require from Buyer full or partial payment in advance, or other security that is satisfactory to Seller, at any time that Seller believes in good faith that Buyer’s financial condition does not justify the terms of payment specified. All payments shall be made in U.S. Dollars, in lawful money of the United States of America, to Seller or Seller’s order. The Products will be shipped to the destination specified by Buyer, FOB Seller’s shipping point. Seller will ship the Products as directed by Buyer. Buyer shall pay in advance, or deposit with Seller, if any, all partial payments of the Products and to invoice each shipment separately. Seller reserves the right to stop delivery of the Products if Buyer fails to pay any amounts when due or otherwise fails to perform its obligations hereunder. All shipping dates are approximate only, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is caused by any cause beyond Seller’s reasonable control, including without limitation acts of God, war, terrorism, and strikes, lockouts, or other labor disturbances. Should any event of force majeure occur, Seller’s delivery obligations shall be extended for a period of time during which such event of force majeure continues. Notwithstanding anything to the contrary contained herein, Seller, its parent, subsidiaries, and affiliates, and their respective officers, directors, shareholders and employees, from and against all any and all damages, liabilities, actions, causes of action, suits, claims, demands, losses, costs, expenses, and other monetary or other forms of damages of any kind or nature of any kind or nature of any kind or nature (including, but not limited to, of persons or damage to property to the extent caused by the negligence or willful misconduct of Seller, its employees, agents or representatives) or contractors in connection with the performance of services at Buyer’s premises under this Agreement and (ii) claims that a Product infringes any valid United States patent, copyright or trademark owned by Buyer, provided Seller is notified of such claim and is not responsible for the performance of the services at Buyer’s premises prior to such notification. It is understood that Seller is not the importer of record and shall not be bound by the provisions of any international trade regulations. In the event of such a third party claim, Seller will: (a) promptly notify Buyer of such claim or proceeding and, if requested by Buyer, assign to Buyer any warranty rights Seller may have against the manufacturer or third party supplier; (b) provide a replacement loaner instrument to Buyer as available and as a result of Buyer’s request at Seller’s then prevailing time and materials rates. If Seller provides repair services or replacement parts or other services under this Section, Seller shall be entitled to charge Buyer the then prevailing rate for such services and parts. If Seller provides or installs any additional equipment for use while the instruments are being repaired, Seller will have the right, at its election, to make Seller in any official or unofficial audit or inspection related to applicable export or import control laws or regulations. Buyer shall cooperate fully with Seller in providing all information and assistance reasonably required by Seller in connection with any such audit or inspection. Buyer shall provide Seller prompt written notice of any third party claim covered by Seller’s indemnification obligations hereunder. Seller shall have the right to assume exclusive control of the defense such claim or, at the option of the Seller, to settle the same. Buyer agrees to cooperate reasonably with Seller in connection with the performance of the services at Buyer’s premises or the defense of any such claim or proceeding.

9. SOFTWARE. With respect to any software products incorporated in or forming a part of the Products hereunder, Seller and Buyer intend and agree that such software products being licensed and not sold, and that the word “license”, similar or derivative words are understood and agreed to mean “license”. Notwithstanding anything to the contrary contained herein, Seller or its licensor, as the case may be, retains all rights and interests in software products provided hereunder. Seller hereby grants to Buyer a royalty-free, non-exclusive, non-transferable license, without power to sublicense, to use software provided hereunder solely for Buyer’s own internal business purposes on the hardware products provided hereunder and to use the related documentation solely for Buyer’s own internal business purposes. This license terminates when Buyer’s lawful possession of the hardware products provided hereunder ceases, unless earlier terminated as provided herein. Buyer agrees to hold in confidence and not to transfer, license, lease or otherwise make available in any form to third parties the software products and any copies thereof. Buyer agrees that the software provided hereunder will not be used for any purpose other than as an integral part of the Product and will only be used in accordance with the documentation. Buyer agrees, upon termination of this license, immediately to return to Seller all software products and related documentation provided hereunder and all copies and portions thereof. Certain of the software products are controlled by the U.S. Government under FAR 12.211 and FAR 12.212. Authorized use by the U.S. Government is strictly limited to that such third parties retain ownership and title to such software products. The warranty and indemnification provisions set forth herein shall not apply to software products owned by third parties and provided hereunder.

11. EXPORT RESTRICTIONS. Buyer acknowledges that each Product and any related software and technology is the full and exclusive property of Seller and is, and will remain, the sole and exclusive property of Seller. Buyer acknowledges that agreement to such terms shall in no way prejudice, limit or prevent Buyer from using the Product to perform any activity or research or otherwise use the Product in any manner consistent with the terms of this Agreement and the documentation accompanying the Product. Buyer is intended for research only and is not to be used for any purposes whatsoever including, without limitation, the provision of any information or data to or for any governmental entity or any governmental authority or any other party or entity utilizing the services of Seller or any of Seller’s representatives.

12. MISCELLANEOUS. (a) Buyer may not delegate any duties nor assign any rights or claims hereunder without Seller’s prior written consent, and any such attempted delegation or assignment shall be void. (b) The rights and obligations of Buyer, its employees, agents, and representatives are limited to the purchase of the Products supplied hereunder. Nothing herein shall restrict the use of information available to the general public. (c) The party failure to perform its obligations hereunder shall be deemed cured if such party shall, within thirty (30) days after written notice by the other party, remedy such failure to perform. In the event that a Product is returned to Seller due to the fault of Buyer, or if a Product is replaced by Seller, or if Buyer requests a repair service hereunder, Buyer shall be responsible for all shipping and handling expenses. (d) Failure to make any payment when due or otherwise fail to perform its obligations hereunder. All shipping dates are approximate only, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is caused by any cause beyond Seller’s reasonable control, including without limitation acts of God, war, terrorism, and strikes, lockouts, or other labor disturbances. Should any event of force majeure occur, Seller’s delivery obligations shall be extended for a period of time during which such event of force majeure continues.

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