



PLEXERA GENERAL TERMS AND CONDITIONS OF SALE

These General Terms and Conditions of Sale ("Terms") govern all orders for and purchases of products and services from Plexera LLC, including installation of equipment, unless other terms are specifically designated by Plexera to apply to a specific product or service, or Plexera and buyer have entered into a master purchase agreement or other written agreement that expressly provides that its terms supersede and replace these Terms with respect to the products or services covered by the master purchase or other agreement (See Section 10, SOLE TERMS, INCONSISTENCIES, PRECEDENCE).

1. PRICE. The price for any product or service (hereinafter collectively "Product") shall be the price stated in Plexera's quotation to buyer for the Product ("Plexera's Quotation"). Plexera's Quotations are valid for 30 days. Prices stated include packaging, but are exclusive of all taxes, fees, duties, levies or other governmental assessments ("Taxes"), which are payable by buyer. Unless otherwise stated in Plexera's Quotation, prices do not include shipping and handling charges, freight or insurance. Buyer may provide Plexera with a tax exemption certificate acceptable to the relevant taxing authorities. Taxes and other charges payable by buyer may be billed as separate items on Plexera's invoice.

2. PAYMENT TERMS; COLLECTION COSTS; SECURITY TERMS; CREDIT TERMS. Payment terms are net 30 days from date of Plexera's invoice. If payment is not received by the due date, Plexera may assess and buyer agrees to pay a late payment charge at the rate of 1 percent per month (12% per year) or the maximum legal rate, whichever is less, of the amount due from the due date to the date of payment, and reasonable legal and other costs incurred by Plexera in collecting overdue amounts. Plexera reserves the right to revoke the standard payment terms in cases where payment is late or credit limits have been exceeded or in any other cases where Plexera is concerned about Buyer's ability to pay. If Plexera deems buyer to be or to have become uncreditworthy, Plexera may require alternative payment terms, including without limitation sight draft, letter of credit, or payment in advance.

3. ACCEPTANCE OF ORDERS, DELIVERY, TITLE AND RISK OF LOSS, INSTALLATION CREDIT TERMS. Plexera may accept or reject any buyer purchase order for Product in whole or in part. Purchase orders may not be cancelled by buyer. If a purchase order is accepted, Plexera will use reasonable efforts to ship tangible Product or perform services, including equipment installation if agreed to by Plexera, within a reasonable time after ordered, or, if a shipment, service commencement or installation date is indicated in Plexera's Quotation or otherwise agreed upon in writing by Plexera, on or before such date. Title and risk of loss with respect to all Products except Products that are software or services, shall pass from Plexera to buyer upon transfer of possession of the Product to a common or other third party carrier at Plexera's facility. Buyer is responsible for providing accessible and suitable electrical supply and meeting the power and environmental requirements for installation and use of Products as outlined in user manuals or other Product documentation. Buyer shall not assign Plexera personnel to work in biosafety level 3 or level 4 laboratories without prior written notice to Plexera and Plexera's consent.

4. REJECTION AND RETURN OF GOODS. Any claims for damaged, missing or defective Product must be reported in writing by buyer within 15 days from the date of buyer's receipt of the Product. In addition, buyer must promptly return a rejected Product to Plexera, FOB destination with freight and insurance prepaid by customer, unused and in a condition no worse than that delivered to buyer and in the Product's original containers and packing material, and accompanied by a valid Return Goods Authorization (RGA) number obtained from Plexera. Plexera may refuse any Product not timely rejected or sought to be returned without a valid return authorization number. For any valid claim timely made, Plexera, at its option, may repair the Product or replace the Product with an identical or substantially similar Product. Shipping charges will not be credited. **THESE ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR DAMAGED OR MISSING PRODUCT, AND, EXCEPT FOR EXPRESS WRITTEN WARRANTY RIGHTS, FOR DEFECTIVE PRODUCT.** Plexera may require that buyer sign and deliver a properly completed certificate of decontamination prior to returning any Product.

5. LIMITED WARRANTY. Plexera makes only those warranties with respect to Products expressly identified as "warranties" and set forth in Plexera's current operating manual or catalog, or in a specific written warranty included with and covering Product, if any. Warranties are made only to the buyer purchasing the Product directly from Plexera, are not transferable and do not extend to the benefit of any other person or entity, unless otherwise expressly stated in writing by Plexera. **ANY PRODUCT NOT COVERED BY AN EXPRESS WRITTEN WARRANTY IS SOLD AND PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, STATUTORY, EXPRESS OR IMPLIED.** Unless otherwise specified in writing in documentation shipped with Product or otherwise agreed by Plexera in writing, Plexera does not provide service or support for custom products or other products made to buyer's specifications. **THE WARRANTIES IDENTIFIED IN THE FIRST SENTENCE OF THIS PARAGRAPH ARE PLEXERA'S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO PRODUCT AND ARE IN LIEU OF ALL OTHER WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, ALL OF WHICH OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR REGARDING RESULTS OBTAINED THROUGH THE USE OF ANY PRODUCT (INCLUDING, WITHOUT LIMITATION, ANY CLAIM OF INACCURATE, INVALID OR INCOMPLETE RESULTS), WHETHER ARISING FROM A STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF PERFORMANCE, DEALING OR USAGE OF TRADE.**

6. INTELLECTUAL PROPERTY INDEMNITY.

6.1 Indemnity. Subject to the restrictions set forth in this Section 6 and provided buyer complies with its obligations in this Section 6, Plexera agrees to defend buyer, and indemnify buyer from and against any infringement damages finally awarded, in any legal action or proceeding brought by a third party against buyer to the extent that such action is based on a claim that the manufacture and sale of a Product by Plexera infringes any United States or foreign patent, copyright, trademark or other intellectual property right of such third party if Plexera had actual knowledge of such intellectual property right and infringement at the time of delivery of the Product to buyer. Notwithstanding the foregoing, Plexera shall have no liability or obligation under this Section 6 with respect to



any claim of infringement based upon: (i) modifications to any Product made by buyer or a third party; or (ii) manufacture, assembly, labeling or branding of Product by Plexera pursuant to specifications or designs or requests for specific labeling or branding furnished by buyer. Notwithstanding anything herein to the contrary, Plexera shall have no indemnification obligations with respect to computers, peripherals (including without limitation, computer keyboards or input devices) or other Products or products originating from a third party and delivered or otherwise provided by Plexera. Buyer's sole right to indemnification with respect to such third party products shall be pursuant to the original manufacturer's or licensor's indemnification obligations, if any, to the extent available to buyer that are provided by the original manufacturer or licensor.

6.2 Buyer's Obligations. Buyer must notify Plexera in writing of any claim for which it may seek defense and indemnity from Plexera hereunder promptly after becoming aware of such claim, make no admission of liability with respect to the claim, and cooperate with and provide reasonable assistance to Plexera, at Plexera's expense with respect to reasonable out of pocket expenses paid by buyer to third parties for such assistance, in the defense or settlement of such claim. Plexera shall have sole authority to defend and/or settle any claim under this Section 6. Plexera's obligations under this Section 6 are contingent upon buyer's compliance with all of the foregoing.

6.3 Remedy for Infringement, Rights of Plexera, Exceptions. If any Product or portion thereof is subject to a suit or other legal proceeding claiming that the Product or such portion infringes a third party's intellectual property right, or in Plexera's opinion is (are) likely to become subject of such a claim, Plexera shall, at its option, have the right to either: (a) procure for buyer the right to continue using the Product; or (b) modify the Product so that it becomes non-infringing; or (c) require buyer to return the Product and upon return, refund to buyer the price actually paid by buyer for the Product, less a reasonable amount for use, damage and obsolescence; or (d) substitute for the alleged infringing Product other suitable, non-infringing Products with comparable functionality.

6.4 ENTIRE LIABILITY. THE FOREGOING STATES THE ENTIRE LIABILITY OF PLEXERA, AND THE EXCLUSIVE REMEDY OF BUYER, FOR ANY INFRINGEMENT OR CLAIMED INFRINGEMENT OF PATENT, COPYRIGHT, TRADE SECRET OR ANY OTHER INTELLECTUAL PROPERTY RIGHT BY OR IN CONNECTION WITH ANY PRODUCT.

7. USE OF PRODUCTS. Products are **For Research Use Only. Not for use in diagnostic procedures.** Unless otherwise expressly stated in writing, Products have not been tested by or for Plexera for any particular use or purpose, or for safety or efficacy. Buyer agrees that it is buyer's responsibility, and not Plexera's, to validate the performance of Products for any specific use or application and to ensure that Products meet applicable regulatory certification or validation or any other requirements. Product should be used in strict accordance with applicable instructions, warnings and other information in user manuals and other Product documentation.

8. FORCE MAJEURE. Plexera shall not be liable for any delay or failure of performance, including without limitation failure to deliver or failure to install, where such delay or failure arises or results from any cause beyond Plexera's reasonable control, including, but not limited to, flood, fire, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war or civil war, plant breakdown, computer or other equipment failure, unusually severe weather, earthquake or other act of God, power loss or reduction, strike, lock-out, boycott or other labor disputes of any kind (whether relating to its own employees or others), embargo, governmental regulation or an inability or delay in obtaining materials. In the event of any such delay or failure of performance, Plexera shall have such additional time within which to perform its obligations hereunder as may be reasonably necessary under the circumstances.

9. LIMITATION OF LIABILITY. TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT SHALL PLEXERA BE LIABLE, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, WARRANTY, OR UNDER ANY STATUTE OR ON ANY OTHER BASIS, FOR

- SPECIAL LOSSES OR DAMAGES;
- INCIDENTAL LOSSES OR DAMAGES;
- INDIRECT LOSSES OR DAMAGES;
- EXEMPLARY, PUNITIVE, OR MULTIPLE LOSSES OR DAMAGES;
- CONSEQUENTIAL LOSSES OR DAMAGES, OR
- INCREASED COSTS OR EXPENSES

SUSTAINED BY BUYER OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR CAUSED BY THE PURCHASE, POSSESSION, OR USE OF ANY PRODUCTS; PLEXERA'S BREACH OF THESE TERMS OR OF ANY PURCHASE ORDER OR OTHER TERMS RELATING TO PRODUCT OR SERVICES; PERFORMANCE OR FAILURE TO PERFORM ITS OBLIGATIONS RELATING TO THE PURCHASE OF PRODUCT; THE POSSESSION OR USE OF PRODUCT; OR THE PERFORMANCE OF ANY SERVICES SUBJECT TO THIS AGREEMENT OR OTHERWISE WITH RESPECT TO PRODUCT - IN ALL CASES ABOVE WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT BUYER IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES ARISING FROM OR RELATED TO LOSS OF USE, LOSS OF DATA, DOWNTIME, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR LOSS OF REVENUE, PROFITS, OR GOODWILL. TO THE FULLEST EXTENT ALLOWED BY LAW, PLEXERA'S MAXIMUM, CUMULATIVE, AGGREGATE LIABILITY ARISING FROM ALL OR ANY COMBINATION OF PLEXERA'S BREACH OF THIS AGREEMENT, THE PURCHASE, DELIVERY, USE, OR POSSESSION OF PRODUCTS SUBJECT TO THE PURCHASE ORDER OF WHICH THESE TERMS ARE STATED TO BE A PART, THE BREACH OF ANY WARRANTY WITH RESPECT TO SUCH PRODUCTS, OR THE PERFORMANCE OF, OR FAILURE TO PERFORM, SERVICES WITH RESPECT TO SUCH PRODUCTS, NO MATTER HOW ARISING, EVEN IF CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF PLEXERA OR ANY OTHER PERSON OR ENTITY, SHALL NOT EXCEED IN THE AGGREGATE THE PRICE PAID BY BUYER TO PLEXERA FOR SUCH PRODUCTS.

Some countries or jurisdictions limit the scope of or preclude limitations or exclusion of warranties, of liability, such as liability for gross negligence or willful misconduct, or of remedies or damages, as or to the extent set forth above. In such countries and jurisdictions, the limitation or exclusion of warranties, liability, remedies or damages set forth above shall apply to the fullest extent permitted by law, and shall not apply to the extent prohibited by law. Without limiting the foregoing statement, nothing in this document is intended to or will exclude or limit Plexera's liability for death or personal injury caused by its negligence or fraud, or any other liability to the extent that the same may not be excluded or limited by applicable law.

10. SOLE TERMS; INCONSISTENCIES; PRECEDENCE. These Terms, together with Plexera's Quotation, any applicable software license, label license or patent statement or other written conditions of use, any other terms and conditions expressly agreed to in writing by Plexera ("collectively, "Plexera's Terms"), and buyer's statement on its purchase order (if accepted by Plexera) of the name or identity of the Product(s) purchased, quantity, delivery date, bill to and ship to address and, if accurate, price (and only such information on buyer's purchase order), constitute the complete, exclusive and entire agreement between Plexera and buyer with respect to purchases of Product (unless other terms and conditions are expressly designated to be applicable by Plexera in writing), and Plexera's offer to sell Product is expressly limited to such terms. Any different terms in any purchase order or other document are hereby deemed to be material alterations and notice of objection to which is hereby given. Any acceptance by Plexera of any offer of buyer is expressly conditioned on buyer's assent to and acceptance of Plexera's Terms to the extent they are additional or different terms from those of buyer's offer. Except as otherwise provided in these Terms, in the event of an inconsistency between these Terms and the terms appearing on Plexera's Quotation or other agreement signed by an authorized representative of Plexera, the terms appearing on Plexera's Quotation or such other agreement shall supersede and take precedence over the inconsistent provision(s) of these Terms, and all other provisions of these Terms shall remain in full force and effect. These terms shall take precedence over and supersede and replace all prior or contemporaneous understandings or agreements, written or oral, and any of buyer's additional or different terms and conditions, which are hereby rejected and shall be void.

11. NO IMPLIED RIGHTS. Nothing in these Terms shall be deemed or construed (i) as a license or grant of any intellectual property rights, whether express, implied, by estoppel or otherwise; (ii) to limit Plexera's rights to enforce its patent or other intellectual property rights, including, without limitation, as to use of any Product beyond that granted under any patent or other intellectual property label license or statement applicable to the Product; (iii) as granting buyer any right to be supplied with any Product or component thereof beyond those ordered by buyer and supplied by Plexera in accordance with these Terms; or (iv) as a license or grant of any right to buyer to manufacture or to have manufactured any Product.

12. CHOICE OF LAW. Any contract between Plexera and buyer relating to Product, including these Terms, and any disputes relating thereto, shall be governed by and construed in accordance with the laws of the State of California, U.S.A., or, if customer is a state of the United States, a city, town or other municipality, or a public university, college or other institution chartered under the laws of a state of the United States, the law of such state or the state in which the institution is chartered, excluding in all cases choice of law provisions and the United Nations Convention on Contracts for the International Sale of Goods.

13. EXPORT, EXPORT CONTROLS, LICENSES. In most cases, Products can be classified as EAR99 products and no export license from the United States will be required. If a United States export license is required on account of Buyer's location, identity or other circumstances, buyer agrees to provide any required documentation. Buyer agrees that it will not export or transfer Product for re-export in violation of any United States laws or the laws of any other jurisdiction, or to any denied or prohibited person, entity, or embargoed country in violation of such laws. Without limiting buyer's other obligations, Buyer is solely responsible for obtaining any licenses, permits, or other approvals necessary for importation and use of Products at buyer's location.

14. MISCELLANEOUS. No amendment of Plexera's Quotation or these Terms or modification thereof shall be binding unless in writing and signed by a duly authorized representative of both Plexera and buyer. Plexera's failure to exercise any rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights or any other rights hereunder. Headings are included herein for convenience of reference only and shall not constitute a part of these Terms for any other purpose. If any provision of these Terms shall be held to be invalid or unenforceable for any reason, such provisions shall, to the extent of such invalidity or enforceability, be severed without in any way affecting the remainder of such provision or any other provision thereof, all of which shall continue in full force and effect.