



TERMS & CONDITIONS AND LIMITED WARRANTY

All quotations, products, and services provided by Gatan, Inc. or EDAX, LLC ("Seller") to any customer, distributor, original equipment manufacturer, end-user, or other purchaser ("Buyer") are furnished only on the terms and conditions stated herein. By ordering and accepting delivery of products and/or services from Seller, Buyer agrees to and accepts these terms and conditions and agrees that, unless modified by separate negotiated agreement as provided below, these terms and conditions, together with the item, quantity, price, and similar terms set out in Seller's quotation, order acknowledgment and/or invoice, constitute the entire agreement of the parties ("Contract"), superseding all other communications and documentation. Seller hereby expressly rejects any different or additional terms, preprinted or otherwise, contained or referenced in any purchase order or other documentation furnished by Buyer, whether before or after delivery of the products or services, even if receipt thereof is acknowledged by signature or otherwise. **No modification of these terms shall be effective unless set out in a separate negotiated agreement signed by an authorized officer of Seller.**

QUOTATIONS & PRICES: Unless otherwise specified in Seller's quotation or order acknowledgment, all prices are in US Dollars and subject to change without notice. Quoted prices are valid for 90 days and may be changed or withdrawn by Seller at any time prior to acceptance. After this 90-day period, all items will be sold and invoiced at Seller's then-current prices in effect at the time of shipment. Quoted prices are valid only for the quantities, terms and payment schedule specified, and are subject to acceptance of all Contract terms; any modification of these terms may result in increased pricing. Clerical or typographical errors are subject to correction. All quotations or submissions by Seller, including any drawings, are confidential and remain the property of Seller. Prices do not include, and Buyer is responsible for payment of, any applicable sales, use, value-added, excise, property, customs, documentary, import/export, or other taxes, tariffs, fees, duties, or charges, domestic or foreign, related to the products and/or services supplied (other than taxes on Seller's net income). Any such amounts paid by Seller will be added to Seller's invoice and paid by Buyer unless Buyer provides an exemption certificate acceptable to the relevant government authority. Without limiting the foregoing, all prices are subject to adjustment without notice at any time prior to shipment in the event that the prices or costs related to any component, materials, parts, or commodities utilized in the Products or Services have increased following the acceptance of any Order for any Products or Services (a "Component Adjustment"). Any Component Adjustment, as determined by Seller, shall be reflected in the invoice for Products or Services that is transmitted from Seller to Buyer in accordance with the terms and conditions hereof. Without limiting the foregoing, all prices are subject to adjustment without notice at any time prior to shipment due to increases in inflation occurring following the acceptance of any Order for any Products or Services (an "Inflation Adjustment"). The Inflation Adjustment for any Products or Services shall be made by multiplying (a) the ratio obtained by dividing the (i) Consumer Price Index (CPI) in place at the time of invoice by (ii) the Consumer Price Index (CPI) in effect at the time of acceptance of an Order times (b) the price or cost for any applicable Products/Services as set forth in the Order. Any Inflation Adjustment, as determined by Seller, shall be reflected in the invoice for Products or Services transmitted from Seller to Buyer in accordance with the terms and conditions hereof.

ORDERS & ACCEPTANCE: Orders must be presented in writing or via electronic means acceptable to Seller and will be binding upon Seller only when accepted at its principal office by written or electronic acknowledgment. Seller reserves the right, at its option and without liability, to refuse any order, in whole or in part, or to specify an alternate delivery schedule if orders from all sources exceed its inventory or ability to deliver. Seller may allocate available inventory and production in its sole discretion. For custom products or services ordered without a prior quotation, Seller will provide a quotation or order acknowledgment outlining its terms of acceptance, including any necessary clarifications to terms and conditions, specifications, pricing, and/or schedule. Where orders are placed, acknowledged, and/or invoiced by electronic transmission, the data transmitted will be deemed "in writing" and "signed," and any printout of electronic transmissions maintained in the ordinary course of business will be considered an "original" and admissible as between the parties to the same extent and under the same conditions as other records maintained in documentary form. Each order placed by Buyer shall constitute a representation that Buyer is solvent at the time of order placement, and each acceptance of delivery of products or services hereunder shall constitute a reaffirmation of such representation at that time. Seller will be entitled to assume that persons placing orders on behalf of Buyer (electronically or otherwise) are authorized to do so and to accept the terms and conditions herein.

DELIVERY: Unless otherwise agreed to and accepted in Seller's quotation or order acknowledgment, all sales are FCA Factory (Incoterms 2010). Title will pass upon delivery to the carrier at Seller's dock, as evidenced by a signed bill of lading (subject to Seller's rights as an unpaid creditor) and, if not previously accepted, receipt of delivery by or on behalf of Buyer will constitute acceptance of these terms and conditions. Buyer will bear all risk and expense for shipment of goods, including without limitation, transportation, loading, unloading, storage, freight, delivery, and insurance. Any shipping contracts made by Seller will be for Buyer's account. Products will be packaged for shipment in accordance with Seller's standard commercial practice; however, Seller will not be responsible for loss or damage in transit. Seller will endeavor to deliver accepted orders promptly; it is understood, however, that dates indicated for delivery or performance represent Seller's best current estimates only, and Seller will have no liability for failure to perform within such dates. Seller assumes no responsibility or liability for delay or inability to ship or install, caused by Acts of God; fire; floods; war; embargoes; labor disputes; acts of sabotage or terrorism; civil commotion; riots; nuclear incidents; earthquakes; storms; epidemics; pandemics; accidents; delays of carriers, subcontractors, or suppliers; voluntary or mandatory compliance with any

governmental act, regulation or request; shortage of labor, materials or manufacturing facilities; export license denials; port congestion; acts of or failure to act on the part of Buyer or its agents/employees; or any other cause or causes beyond Seller's reasonable control.

PAYMENT TERMS: Unless otherwise specified in Seller's written Proposal or order acknowledgment, payment terms are net 30 days from date of invoice, subject to approved credit at the time of order invoicing. All other orders are subject to payment terms of cash in advance or letter of credit. Orders exceeding \$100,000 require a 25% advance, non-refundable deposit. No discount for early payment or other deviation from these payment terms is authorized unless approved in writing by Seller's Finance Department. Credit card payments are acceptable. However, a 3% surcharge will be added to all credit card transactions over \$25,000. Partial shipments will be treated as separate sales, each of which will be billed as made and payable on the terms above. Payment terms will not be affected by any delay in delivery, installation, or acceptance, and Buyer will be liable for payment of the invoice price of all delivered items substantially conforming to this Contract, notwithstanding that Buyer may not have accepted or may have revoked acceptance of same. Payment is required for all delivered products in accordance with invoice terms independent of any required installation, which will be separately invoiced by Seller following completion of the installation. If shipment or installation is delayed due to Buyer's acts or omissions, payment will be due on the scheduled shipment or installation date as shown on Seller's order acknowledgment, and the items ordered will be stored by Seller at Buyer's expense and risk for the duration of such delay. Seller reserves the right to modify payment terms at any time or to require cash payment before delivery of any unfilled portion of this Contract or other assurance of due performance when, in the opinion of Seller, Buyer's financial condition or previous payment record so warrants. Upon making any such demand or if at any time Buyer becomes delinquent in any payment due, Seller in its discretion may take any and all actions permitted by law to protect its interests including set off against any sums otherwise due from Seller to Buyer and may suspend production and institute credit hold procedures on all open orders. Future orders will not be confirmed until the Buyer's account is brought current, including all required payments and interest charges. If Buyer fails to comply with any demand pursuant to this section within the period specified (but in no event longer than thirty (30) days), Seller may (1) by notice to Buyer, treat such failure or refusal as a repudiation by Buyer of that portion of the Contract not then fully performed, whereupon Seller may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable, or (2) make shipments under reservation of a security interest and demand payment against tender of documents of title.

CHANGE & CANCELLATION: Any changes requested by Buyer must be submitted in writing and are subject to written acceptance by an authorized representative of Seller. Changes in delivery date must be requested by the Buyer at least 45 days prior to the original ship date. Costs and/or delays resulting from such changes will be solely determined by Seller and binding upon Buyer. Except by special written agreement, accepted orders may be terminated or canceled by Buyer only with Seller's prior written consent, which shall be subject to forfeiture of any deposit or down payment and payment by Buyer of a termination penalty as follows: for cancellation requests received by Seller (i) 60 or more days prior to acknowledged shipment date, a penalty of 10% of the remaining balance; (ii) 30-60 days prior to the acknowledged shipment date, a penalty of 30% of the remaining balance; and (iii) less than 30 days prior to the acknowledged shipment date, a penalty of 60% of the remaining balance. For custom or special order products, or if Seller does not consent to cancellation, Buyer is responsible for payment of the entire balance due. This Section shall not limit, and Seller shall be entitled to pursue, any and all other remedies that it may have at law or in equity in the event of any breach by Buyer, and may cancel or suspend performance of any order if Buyer fails to meet any of its obligations as provided herein.

INSPECTION & ACCEPTANCE: Buyer or Buyer's agent may inspect the products upon delivery, shall accept any tender of the products by Seller that substantially conform to the description of the products set forth in the applicable quotation or order acknowledgment. Buyer is responsible for inspecting all products upon delivery and shall provide written notice to Seller, (a) in the case of defects identifiable through inspection, fourteen (14) days after arrival of the shipment or (b) in the case of defects not discoverable through inspection, thirty (30) days from date of invoice. If Buyer fails to give timely notice, all products will be deemed to conform to the terms of Buyer's order and deemed accepted and any further claims by Buyer shall be limited to those available under the applicable Warranty, as set out below. Modification, use, or resale of products in any manner by Buyer or any of its employees, agents, representatives, contractors, or affiliates ("Representatives") following delivery (regardless of whether the

installation has occurred) will also constitute acceptance by Buyer. Any claim for loss or damage in transit should be made directly to the delivering carrier and will not affect Buyer's liability to pay the full price of the products to Seller. In the case of non-conforming products Buyer shall immediately notify Seller whether or not Buyer will continue to accept similarly non-conforming products and acceptance of any non-conforming products shall constitute a waiver by Buyer of specification requirements for said products. Buyer's acceptance of products tendered under this Contract shall be final and irrevocable.

INSTALLATION & FIELD SERVICES: Product prices are exclusive of any required installation or other services. Such services, if required by Seller, will be provided at Buyer's expense. Seller will coordinate with Buyer regarding the schedule and requirements for any installation or other services. Buyer is responsible for providing a safe and suitable site with all required equipment and service ready to receive the products on the estimated delivery date. Seller shall have no liability for any damage, claim, or liability which, in Seller's opinion, results from inadequate or faulty installation or service of products by anyone other than a Seller authorized service technician. If products are not installed by Seller, Buyer shall be responsible for all installation obligations, including radiation testing and the performance of an x-ray survey by trained personnel.

Buyer will reimburse Seller at its standard rates for any extra time, travel, or expense resulting from absence or inadequacy of rescheduling arrangements or other delay or prolongation of installation caused by Buyer or its Representatives. Buyer is responsible for taking all precautions reasonably necessary to prevent injury to Seller's employees, agents, or contractors at Buyer's premises. No services will be performed if Seller reasonably believes that conditions at Buyer's site represent a safety or health hazard to any Seller personnel.

PRODUCT SPECIFICATIONS AND VALIDATION: All products, when delivered by Seller, will substantially conform to Seller's published specifications at time of shipment from its factory, except where otherwise specified in this Contract or product documentation; however, Buyer will be responsible for validation of each specific product application and any use of products as a component of, physically installed on, or in conjunction with any products not provided by Seller for such purpose, including all necessary testing and qualification, and will put in place all necessary protections to ensure that any failure or defect relating to the products will not result in any other or further liability, damage, or safety issues. Any description of the Products contained in this Contract is for the sole purpose of identification, is not part of this Contract, and does not constitute a warranty of any sort. Any sample or model provided or used in connection with this Contract is for illustrative purposes only, is not part of this Contract, and is not to be construed as a warranty that the Products will conform to the sample or model. Seller reserves the right to discontinue or change the design or specifications of any product or component at any time and will use commercially reasonable efforts to notify Buyer of any decision to discontinue products or material changes in specifications affecting form, fit, or function. In certain circumstances, Seller may incorporate components or parts into its Products that are refurbished and equivalent to new in performance and reliability.

SOFTWARE & FIRMWARE: Any software provided by Seller including internal system code or firmware that executes below the external user interface and which is integral to the operation of the product and/or operating system software ("Software") is licensed, not sold, and is provided upon the terms and subject to the conditions set forth in the applicable license agreement, the terms of which will prevail over any contrary terms and conditions herein. Buyer will be deemed to have agreed to the terms of any applicable licenses by opening the media envelope or by installing or using the Software or the product in which it is installed. Seller or its suppliers or licensors own all such Software and, unless otherwise provided in the applicable license agreement, Seller grants Buyer, only for so long as Buyer owns the product, a limited, personal, non-exclusive, non-transferable, single-user license to use and install such Software, as appropriate, on a single computer that supports a single microscope. A separate license agreement and fee are required if: (1) the Software is installed or used on more than one computer or (2) the Software is used in connection with more than one microscope. All rights in and to such software or firmware that are not expressly granted to Buyer are expressly reserved. Buyer may not copy, or duplicate the Software, in whole or in part (other than one back-up copy, bearing all original copyright notices, for archival purposes) or transfer, sublicense, distribute, sell, lease, rent, or otherwise provide or disclose any such software or firmware, or any portion thereof, to any third party, including without limitation any use over the internet or through an application service provider model. Buyer may not circumvent any usage or other restrictions imposed by any license manager, or modify, adapt, copy, recast, alter, compile, decompile, translate, or create any derivative work based on such software or firmware, or use the same for application development purposes. The license granted to Buyer will terminate when Buyer discontinues use of the products with which such software or firmware is provided.

LIMITED WARRANTY: Seller products and Software are warranted in accordance with the applicable limited warranty as set out below ("Warranty"). The Warranty is effective only upon payment in full for the product(s) or service(s) to be warranted, extends only to the original Buyer, and may not be transferred to end-users or other third parties by operation of law or otherwise. The Warranty may be altered or terminated by Seller in whole or in part for future product sales at any time, without prior notice. No employee, agent, dealer, reseller, or other person is

authorized to modify, vary, or extend the Warranty or to assume for Seller any other liability in connection with its products.

Seller Hardware. Seller warrants that all hardware products and components manufactured by Seller (other than consumables, wear, and maintenance parts) shall be free of defects in materials and workmanship under normal use in a typical operating environment for a period of one (1) year from date of shipment from Seller's factory. Seller warrants that the Products meet Seller's published specifications at the time of shipment from its factory.

Extended Warranties are available for purchase after the Limited Warranty has expired. See "Service Contracts" section.

Seller Software and Media. Seller warrants for a period of one (1) year from date of shipment that all Seller Software, when properly installed on a computer whose hardware and software configuration fully complies with the configurations specified in the most current Seller operating manuals and used in accordance with the applicable license terms, will execute the programming instructions set forth in the accompanying documentation, and the media upon which the Software is recorded will be free from defects in material and workmanship under normal use, for a period of one (1) year from date of invoice. Seller does not warrant that the operation of the Software will be uninterrupted or error-free.

Consumables, Wear & Maintenance Parts. The Warranty does not cover parts and accessories which are expendable or consumable in the normal operation of the products. In addition, certain parts in the course of normal use and maintenance have finite lifetimes. For this reason, wear and maintenance parts as specified in Seller's operating manuals have a Warranty Period of 90 days from date of invoice, unless otherwise specified.

Third Party Products. Items not manufactured by Seller are warranted only by the original manufacturer and only if and to the extent set forth in the original manufacturer's warranty. Seller will not be liable for any damage or loss of any nature with respect to such third-party products or failure of any such supplier to perform under its warranty.

Limited Remedy. During the applicable Warranty period above ("Warranty Period"), defective products or components covered by Warranty will be repaired or replaced with a conforming replacement product or part, at Seller's sole option. The repaired or replaced product is then warranted under the terms of this Warranty for the balance of the original Warranty term. In the case of Software, Buyer's sole remedy shall be to return the physical media to Seller for replacement. For other products, warranty service may be performed on location or on a return-to-factory basis, as determined by Seller. For factory service, each party will be responsible for its own shipping costs (freight prepaid). Seller will provide at its expense all parts and labor to effectuate the required repair or replacement (excluding consumables, wear, and maintenance parts), but will not be responsible for any other costs not directly covered by its repair/replacement obligation, including without limitation costs of dismantling, disassembly, de-installation, removal, or reinstallation of Buyer or 3rd party instrumentation or costs of procurement of substitute items meant to function as an interim solution in place of the Seller item being serviced. If Seller is not able, using reasonable efforts, to remedy a defect, Seller's sole obligation will be to refund an equitable portion of the price paid to Seller upon return of the defective product or Software (including copies).

Non-Warranty Support and Product Obsolescence. Service required beyond the normal scope of warranty (see Exclusions below) or after expiration of the applicable Warranty Period will be billable repairs and Seller will charge Buyer its then-current rates and prices for parts, labor, and transportation. Buyer may also be billed for time, travel, and other costs associated with warranty claims for products with no trouble found. Seller will continue to provide billable service support for Seller manufactured Products for a period of three (3) years after discontinuance of a product by Seller; thereafter, any service support will be offered at the sole discretion of Seller. Replacement parts or Products used by Seller during such post-warranty services are warranted under the Warranty terms herein for a period of ninety (90) days from date of service.

Service Contracts. Service required beyond the normal scope of warranty can be purchased via our Service Plan contracts. The specific Seller equipment model and effective coverage dates are shown on the contract cover page.

All terms found under this Standard Terms and Conditions document also apply to all Service Plan contracts.

A Seller instrument is eligible for a renewal/extension of the Service Plan contract if that instrument is currently under Warranty or has a Service Plan contract. If the instrument/product is out of Warranty or the Service Plan contract has expired, an on-site or factory inspection must be performed to ensure that no existing problems or faults exist. If defects or faults are found, the product will need to be brought up to working acceptable condition before activating any purchased Service Plan contract. Fees associated with bringing the system to a working acceptable condition are not included in the contract and will be charged separately.

Buyer Responsibilities. To qualify for Warranty coverage, Buyer must (a) perform all routine maintenance and cleaning procedures at required intervals as specified in Seller's operating manuals; (b) use only Seller replacement parts; and (c) use only Seller or Seller-approved consumables. Buyer is also responsible for providing Seller's authorized service technicians with (i) adequate and safe access to and

around the products during normal Seller working hours during the Warranty Period, as required to perform any required repairs or service, and (ii) access to, and use of, any and all information and facilities determined necessary by Seller to service and/or maintain the products. Insofar as the information required to service and/or maintain the product may contain confidential or proprietary information, Buyer is responsible for safeguarding and protecting such information from unauthorized access or use. Failure to comply with the foregoing responsibilities will void the Warranty provided herein.

Exclusions. Seller's Warranty does not cover defects or problems caused by Buyer's acts (or failures to act), the acts of others, or events beyond Seller's reasonable control. Without limiting the foregoing, any warranty claim, support claim, or liability is excluded, and Buyer shall be solely responsible, for any problem, failure, malfunction, defect, claim, damage, liability, or safety issue (including X-ray emissions) arising out of (1) inadequate or faulty installation (unless performed by a Seller authorized service representative); (2) accident, theft, tampering, misuse, abuse, or neglect, including without limitation damage in transit or storage, contamination (by liquid or otherwise), improper or inadequate care, maintenance, adjustment, or calibration, or maintenance by an unapproved service provider; (3) misapplication, improper use, or other failure to follow Seller's operating instructions and safety precautions, including any use of products outside of normal or specified operating or environmental conditions or electrical specifications or in a manner not authorized in the product documentation, (4) use of products in conjunction with, physically installed on, or as a component of Buyer or third party equipment, hardware, software, components, services, accessories, attachments, interfaces, or consumables, other than those supplied or specified by Seller, (6) the design, operation, or fault of any Buyer or third party equipment, parts, components, accessories, software, attachments, or interfaces in those special cases where Seller specifically authorizes in writing the installation and/or use of Seller products with Buyer or third party products; (7) acts of God, fire, flood, or similar catastrophes normally covered by insurance, computer viruses, power surges, or other causes external to the products, or (8) latent defects discovered after expiration of the applicable warranty period. Modification, disassembly, rewiring, re-engineering, recalibration, and/or reprogramming of products other than as specifically authorized by Seller in writing, is prohibited and will void all warranties. Seller's responsibility will in all events be limited to repair or replacement of the failed or defective Seller product(s) and will not include any further liability for or arising out of any Buyer or third-party products in which Seller's products may be installed or with which they are combined or used. **TO THE FULL EXTENT ALLOWED BY LAW, THE WARRANTY AND REMEDIES SET OUT HEREIN ARE EXCLUSIVE AND EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS, TERMS, OR CONDITIONS, WRITTEN OR ORAL, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES, TERMS, OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, CORRESPONDENCE WITH DESCRIPTION, OR NONINFRINGEMENT, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.**

Certain Legal Limitations: The foregoing Warranty gives Buyer specific legal rights which may vary based on local law. When, under applicable law, implied warranties may not be excluded in their entirety, such warranties will be limited to the duration of the applicable written Warranty. No employee, agent, dealer, reseller, or other person is authorized to modify, vary, or extend Seller's Warranty nor to assume for Seller any other liability in connection with any of its products or services, and no affirmation of fact or promise made by Seller, whether or not in this Contract, shall constitute a warranty that the Products will conform to the affirmation or promise.

RETURN AUTHORIZATION: All returns of products, parts, or other items to Seller (including returns for examination or repair under Warranty) require prior authorization from Seller, in the form of a returned material authorization ("RMA"). The RMA and associated RMA number may be obtained through Seller national sales offices or directly from Seller's Warrendale facility at 724-776-5260 or by Fax at 724-776-3360. The RMA number is valid for 30 days from issuance and should be clearly marked on the exterior of the shipping container and all enclosed shipping documents. For items not covered by Warranty, issuance of an RMA requires a Buyer purchase order ("PO") covering all charges associated with the repair. A PO is also required for items under Warranty where Buyer requests an expedited exchange, as may be the case for a printed circuit board; Seller will issue a credit against this PO upon receipt of the returned product per the RMA instructions. All returned items should be shipped by Buyer freight prepaid and properly boxed to prevent damage in transit. **SELLER WILL NOT ACCEPT ANY C.O.D. PARCELS.** For returned products covered by Warranty, return transportation will be prepaid by Seller. For returned products not under Warranty or returned with no fault found, return transportation will be charged to Buyer.

USE RESTRICTIONS & REQUIREMENTS; EXPORT CONTROL: Buyer is responsible for compliance with all applicable laws, regulations, codes, recommendations, and requirements of government authorities, including payment of all applicable taxes or duties, obtaining all required licenses and permits, and compliance with all applicable local conditions, codes, or interpretations pertaining to the products, their import, export, transfer, sale, disposition, installation, service, storage and use, including any use or sale thereof as a component of, physically installed on, or in conjunction with Buyer or third party products, it being understood that Seller

makes no warranty of any kind regarding compliance with such requirements. Buyer may not import, export, sell, transfer, service, store, or otherwise handle, distribute, or use any product in any manner prohibited by applicable laws and regulations, including without limitation all applicable export control laws, regulations, and requirements, or contrary to any written warning or instruction given by Seller with respect to such product, its installation, operation, or use herein, in the product documentation, on Seller's website, or otherwise. Buyer acknowledges that Seller's products, related technical data, and direct products thereof may be subject to restriction under the export control laws and regulations of the United States and other jurisdictions, and that Seller may refuse to make any sale or shipment of Products where prohibited under applicable law. Each party shall defend, indemnify and hold harmless the other party from all liabilities, claims, losses, damages, and expenses (including without limitation reasonable attorneys' fees and expenses) arising out of any breach of these terms and conditions except as limited herein. Buyer warrants that it shall not violate or cause the Seller to violate the U.S. Foreign Corrupt Practices Act of 1977 (FCPA), as amended, the United Kingdom Bribery Act (UKBA) of 2010, as amended, or their respective implementing regulations in connection with Buyer's sale or distribution of the Products and/or Services. Buyer also warrants that Buyer does not know or have reason to believe that any consultant, agent, representative or other person retained by Buyer in connection with the sale and/or distribution of Products/Services has violated, nor caused Seller to violate the FCPA and/or the UKBA. Where Buyer learns of or has reason to know of any violation of FCPA and/or or UKBA in connection with the sale or distribution of Products/Services, Buyer shall immediately advise Seller.

PROPRIETARY INFORMATION: Buyer acknowledges that Seller's products and services are based upon and embody various confidential and/or proprietary technology, processes, methods, information, know-how, and trade secrets of Seller, and that Seller (or its suppliers or licensors, where applicable) shall exclusively own all inventions, technology, techniques, know-how, engineering, and other proprietary information of any kind used or embodied in the products, drawings, designs, specifications, prototypes, documentation, software, services, and other items furnished by Seller to Buyer, all related materials and information, written or oral, all patents, patent applications, copyrights, trademarks, trade names, trade secrets, and other intellectual property rights with respect thereto, and all reproductions or derivatives thereof in any form ("Proprietary Information"). Buyer shall neither acquire nor claim any right, title, or interest in, and shall exercise reasonable care to maintain the confidentiality of, any Proprietary Information provided by or obtained from Seller, and shall use Proprietary Information solely as required for its authorized use of the products and services supplied by Seller hereunder. Buyer may not (i) copy, adapt, develop, reverse engineer, recast, compile, decompile, translate, disassemble, or create derivative works from any products, documentation, or other Proprietary Information provided by Seller, or permit any Representative, end-user, or other third party to do so, (ii) remove, alter, or obscure any

copyright, trademark, logo, government restricted rights, or other proprietary or confidentiality notices or legends from any items provided by Seller, or (iii) disclose or use Proprietary Information for commercial purposes or in a manner detrimental to Seller. Disclosures of Proprietary Information may be made only to Buyer's Representatives having a specific need to know and a written obligation to protect such information on terms no less restrictive than those herein. Buyer will be responsible for any breach by its Representatives. It is agreed that any breach of this Section may cause Seller irreparable harm for which recovery of damages would be inadequate, and that immediate injunctive or other equitable relief are appropriate and available to Seller to prevent any violation, threatened or actual, of this article, even if monetary damages are available and readily quantifiable, and without proof of actual damage.

LIMITATION OF LIABILITY: Any action against Seller arising out of or relating to this Contract, regardless of form, must be brought within two (2) years after the cause of action arises or performance hereunder is completed or terminated, whichever first occurs. Any action must be brought in the courts of the State of Delaware, and Buyer submits to the jurisdiction of such courts for purposes of such action. **SELLER'S AGGREGATE LIABILITY IN DAMAGES OR OTHERWISE FOR ANY AND ALL CAUSES WHATSOEVER SHALL BE LIMITED TO THE PURCHASE PRICE PAID OR PAYABLE TO SELLER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM IN NO EVENT WILL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR OTHER INDIRECT LOSSES OR DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS OR PROFITS, DOWNTIME, LOSS OF USE, OR LOSS OF OR DAMAGE TO DATA, EQUIPMENT, OR PROPERTY, HOWEVER CAUSED, WHETHER FORESEEABLE OR NOT, AND EVEN IF ADVISED OF THE POSSIBILITY THEREOF. THESE LIMITATIONS WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY, INDEMNIFICATION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION, NEGLIGENCE AND DETRIMENTAL RELIANCE, AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.** Buyer acknowledges that these limitations of liability are a material part of the bargain between the parties and are reflected in product pricing, which would be higher without these limitations.

FORCE MAJEURE: Neither party will be liable for non-performance or delay in performance of any obligation (other than payment of monetary sums due) to the extent caused by events or circumstances beyond its reasonable control and without negligence on its part, provided that the affected party uses reasonable

efforts to avoid or remove any causes of non-performance and continues performance with reasonable dispatch whenever such causes are removed. For delays resulting from such causes, performance will be correspondingly extended.

COLLECTION & FINANCE CHARGES: Seller will charge a 1½% per month service and carrying charge on all past due balances and, if Seller deems it necessary to refer an account to an agent or attorney for collection, all costs and expenses of collection (including, without limitation, reasonable attorneys' fees) will be charged to Buyer's account, in each case not to exceed any maximum allowed by law. Remittances will be received by a bank simply as a clearing agency. The receiving bank has no authority to determine whether or not the amount remitted constitutes payment in full, and deposit of remittances marked to indicate payment in full shall not indicate or be deemed as Seller's acceptance of the remittance as payment in full unless the remittance actually constitutes payment of all sums owed. If Buyer shall fail to pay any amount when due or shall default, Seller may without notice to Buyer peaceably enter any premises in which the product may be found and render it inoperable or remove it and hold and sell it in accordance with applicable law.

GOVERNING LAW: These Terms and Conditions and all transactions to which they may apply, including without limitation any disputes arising out of products or services supplied by Seller hereunder, shall be governed by and construed and enforced in accordance with the laws of the State of Delaware and the United States of America, without giving effect to any conflict of law provisions thereof. To the extent that the United Nations Convention on Contracts for The International Sale of Goods or the Uniform Law on the Formation of Contracts for the International Sale of Goods may be applicable by operation of the laws of the United States and the State of Delaware, the Parties opt out of the application of the Convention, and any applicable international discovery and service of process conventions will be inapplicable.