

## EQUIPMENT EXHIBIT

This exhibit contains the terms governing Customer's purchase of any Equipment pursuant to the Agreement and is hereby incorporated into the Agreement. The terms of this exhibit are applicable to any Equipment purchased by Customer from time to time.

### **A. Definitions**

**"Equipment"** means those items of third-party hardware, equipment, or accessories specified on an applicable Order Form to be purchased by Customer and sold by Licensor. The purchase price for the Equipment shall be as set forth on the applicable Order Form.

**"Equipment Maintenance"** means the equipment maintenance service provided to Customer by Licensor under the Agreement and according to Licensor's maintenance and support policy for the applicable Equipment.

**"Maintained Equipment"** means all those items of hardware and equipment that will be maintained by Licensor in accordance with the Agreement.

### **B. Provision of Equipment**

1. The additional terms and conditions set forth in this Exhibit shall apply to any Equipment and Equipment Maintenance provided to Customer under the Agreement. If there is a conflict between the terms set forth in the Agreement and this Exhibit, the terms set forth in this Exhibit will control. All capitalized terms used herein, and not otherwise defined herein, shall have their respective defined meanings as set forth in the Agreement.
2. Licensor will use commercially reasonable efforts to meet the delivery dates agreed upon but shall not be liable for late or delayed shipment. Late or delayed shipment shall not be a basis for Customer's cancellation of any order. Equipment will be delivered "ex works". If at the time of delivery Licensor wishes to substitute equipment equivalent to the type specified on the Order Form, then Licensor may do so provided that the price will not be increased and that the substitution does not prejudice the Customer.
3. Customer shall test all Equipment within five (5) business days of receipt. Equipment shall be deemed accepted after the five (5) days testing period unless Customer notifies Licensor in writing prior to the expiration of such testing period that such Equipment is not functioning properly.
4. If any of the Equipment is incorrect, nonconforming or damaged, Customer must notify Licensor in writing within ten (10) business days of Customer's receipt of such Equipment.
5. For defects in Equipment notified to Licensor in writing by Customer within ten (10) days of Customer receiving such Equipment, Licensor will handle warranty repairs or returns pursuant to its internal policies and the applicable terms and conditions and policies of the third party supplier. All packaging, user manuals, and accessories must be retained for at least ten (10) days in their original condition should a warranty repair or return, as described herein, be necessary. No maintenance services are provided for Equipment unless expressly stated in an Order Form.
6. All Equipment is provided pursuant to the third party supplier's terms and conditions for such products which accompany the Equipment or are otherwise published by the third party supplier. Customer agrees to use the Equipment in accordance with such applicable third party supplier's terms and conditions and acknowledges and agrees that any warranties applying to the Equipment, if any, are made solely by the third party supplier and are limited to those offered by the applicable third party supplier terms and conditions which governs the use by Customer of the applicable Equipment and accordingly the Licensor is not liable for the Equipment beyond the terms set out in this Exhibit.
7. THIS EXHIBIT STATES CUSTOMER'S SOLE REMEDY AND THE SOLE LIABILITY OF LICENSOR ARISING OUT OF ANY DEFECT IN THE EQUIPMENT SUPPLIED HEREUNDER.
8. Where the title in Equipment is sold to the Customer as indicated in the third party supplier's terms and conditions or in the Order Form, any delivery of Equipment is made under retention of ownership. The retention of ownership shall remain applicable until full payment has been made of the total price with interest, costs and any expenses regarding the delivery. The Customer is not entitled to change, pledge, rent, lend or otherwise dispose of the delivery until the termination of the retention of ownership without the Licensor's prior written consent.
9. Where Equipment is licensed to Customer, Customer is authorized to use such Equipment for the License term set forth in the Order Form, or other agreement between the Parties, subject to any renewals in accordance with the provisions of section 9(a) of the Agreement. At the end of the License term, Customer shall return the Equipment at its own cost in a good condition.

10. Upon termination of the Agreement, all licenses granted herein shall automatically cease and Customer shall discontinue all use of licensed Equipment, and return any copies of licensed Equipment in Customer's possession or control at its own cost and in a good condition in accordance with the third party supplier terms and conditions or Licensor's instructions. If Customer fails to return the licensed Equipment in good condition within 14 days of Licensor's request, Customer agrees to pay for the cost of replacement or repair of such licensed Equipment upon receipt of invoice. Upon Licensor's request, Customer shall deliver to Licensor a certificate executed by an authorized officer of the Customer stating that Customer has returned all such copies of the licensed Equipment.

**B. Equipment Maintenance**

1. During the Maintenance Term, Licensor will provide Customer with Equipment Maintenance for the Maintained Equipment. Upon expiration of the Maintenance Term, the corresponding Equipment Maintenance shall automatically renew for successive one-year periods, unless Customer provides Licensor with at least ninety (90) days' advance written notice prior to the expiration of the then current term that such party desires not to renew. Licensor shall invoice Customer on an annual basis in advance for each annual renewal period. Fees for all annual renewal periods will be due within thirty (30) days of receipt of the corresponding invoice or the day prior to the contract renewal date, whichever is sooner and all such payments are non-refundable.
2. In the event Customer cancels Equipment Maintenance at any time prior to the end of the Maintenance Term, Customer agrees to immediately pay the outstanding maintenance fees that Licensor would have received for the entire Maintenance Term. The Parties agree that this payment is to be considered liquidated damages, and not a penalty, and the Parties agree that this amount is a fair and reasonable estimation of Licensor's damages in the event Customer breaches Customer's commitment to the Maintenance Term. Customer agrees that Equipment Maintenance shall be provided only by Licensor, its Affiliates or approved third-party servicers, whose contracts include (i) confidentiality terms that are substantially similar to the ones contained herein and (ii) a requirement that the third-party servicer use the Maintained Equipment only for providing services to the Customer in accordance with the Agreement.