

TERMS AND CONDITIONS OF SALE

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1. **SCOPE.** The following terms and conditions (“Agreement”) apply to the sale of all products and/or services (the “Products”) delivered or provided by ACCES I/O Products, Inc., a California corporation, pursuant to (a) any quotation, purchase order acceptance or other writing attaching or incorporating by reference this Agreement or (b) any other purchase order accepted by ACCES I/O.

2. **PURCHASE ORDERS.** Buyer shall issue to ACCES I/O firm purchase orders for each purchase. In the event no Purchase Order is supplied, the Buyer will receive an order confirmation of verbal order via email. All orders with Net terms are subject to credit approval. All orders are subject to confirmation of delivery schedule by ACCES I/O prior to acceptance. ACCES I/O’s acceptance of an order shall only occur upon delivery to Buyer of a written acceptance executed by ACCES I/O’s duly authorized representative. In the event of any conflict between this Agreement and any purchase order or other document, the terms of this Agreement shall prevail.

3. **PRICES.** The prices for Products are set forth in ACCES I/O’s quotation which can be changed at any time. The quoted prices are exclusive of all taxes, freight, duties, and other applicable charges which shall be paid by Buyer. Any taxes, duties, fees, charges or assessments of any nature levied by any governmental authority in connection with any transaction under this Agreement, whether levied against Buyer, against ACCES I/O or its employees, or against any of ACCES I/O’s subcontractors or their employees, shall be the responsibility of Buyer and shall be paid directly by Buyer to the governmental authority concerned. If ACCES I/O or its subcontractors, or the employees of either, are required to pay any such levies, fines, penalties, or assessments, then Buyer shall reimburse such payor promptly upon submission of the applicable document.

4. **ORDER OF PRECEDENCE.** These terms and conditions of sale and any attachments take precedence over buyer’s additional or different terms and conditions, to which notice of objection is hereby given. Acceptance by Buyer is limited to these terms and conditions. Neither ACCES I/O Product’s commencement of performance, nor delivery shall be deemed or construed as acceptance of Buyer’s additional or different terms and conditions.

Buyer’s purchase of ACCES I/O products hereunder represents acceptance of these terms and conditions of sale, and any attachments, which together constitute the entire understanding between the parties and supersede any previous communications, representations, or agreements by either party whether verbal or written. No change or

modification of any of the terms or conditions herein shall be valid or binding on either party, unless in writing and signed by an authorized representative of each part.

5. **CHANGES.** Within thirty (30) days of receipt from Buyer of a request for changes within the general scope of work under an accepted purchase order, ACCES I/O shall respond in writing stating the consequences of such requested change. If such requested change causes an increase or decrease in the cost of the Products and/or the time required for performance, an equitable adjustment reasonably determined by ACCES I/O shall be made in the price and/or the time required for performance. Such price adjustment may include but not be limited to any rework charges associated with the requested change. ACCES I/O shall have the right in its sole discretion to accept or reject any such requested changes and shall not be required to proceed with the change unless the parties have mutually agreed. All approved change orders shall be considered amendments to the applicable purchase order. If a requested change is not accepted by ACCES I/O, the original purchase order shall remain in effect.

6. **PAYMENTS.**

(a) **DOMESTIC.** Upon ACCES I/O's approval of Buyer's credit, if no credit enhancement is required; all payments shall be made in United States Dollars, within the agreed upon net terms from the date of invoice ACCES I/O reserves the right to revoke open account terms at any time based on unsatisfactory payment. All payments received after thirty (30) days may accrue interest at the rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum legally permissible rate.

(b) **INTERNATIONAL.** Open account terms will be considered by ACCES I/O. Buyer agrees, upon request, to provide ACCES I/O with financial information acceptable to ACCES I/O to assist ACCES I/O in determining from time to time the credit terms, if any, that ACCES I/O may extend to Buyer. ACCES I/O reserves the right to revoke open account terms at any time based on unsatisfactory payment. All payments shall be made in United States Dollars, within the agreed upon net terms from the date of invoice. All payments received after thirty (30) days may accrue interest at the rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum legally permissible rate.

7. **TRANSPORTATION.** All sales and deliveries of Products shall be "FCA ACCES I/O's authorized shipping point" as defined in Incoterms 2000, as amended. Buyer is responsible for all transportation, insurance, duties, taxes and other applicable expenses. These expenses shall be paid by Buyer and shall be added to ACCES I/O's invoice to Buyer if prepaid by ACCES I/O.

8. **TITLE AND RISK OF LOSS.** Title to the Products shall pass to Buyer upon ACCES I/O's delivery of the Products to a common carrier or to the Buyer's designated location. Buyer hereby grants ACCES I/O a security interest in the Products until the invoice

covering the Products has been paid in full. Buyer also irrevocably appoints ACCES I/O as its lawful attorney-in-fact coupled with an interest with full authority to execute and file UCC-1's and any other necessary documents to perfect and enforce its security interest. ACCES I/O shall bear the risk of loss or damage until the Products are delivered to a common carrier or to Buyer's designated location. Upon ACCES I/O's delivery to a common carrier or to Buyer's designated location, Buyer shall bear the entire risk of loss and shall be liable for all loss or damage to the Products.

9. INSPECTION. Unless Buyer notifies ACCES I/O in writing within thirty (30) days from date of shipment of any Products that said Products are rejected, they will be deemed to have been accepted by Buyer. In order for the notice of rejection to be effective, Buyer must also specify in detail the reason(s) why the Products are being rejected. Buyer shall only have the right to reject Product for "defects," as defined in Section 10, Warranty.

10. FORCE MAJEURE. ACCES I/O shall not be liable for any failure to perform or other loss due to unforeseen circumstances or causes beyond its control, including without limitation acts of God, strikes, material and/or transportation shortages, natural casualties, governmental regulations, war, fire, flood, disasters and civil unrest.

11. WARRANTY. ACCES I/O agrees to repair or replace Products that fail due to a defect during the established Warranty Period of each Product unit to Buyer for thirty six (36) months after the shipment date. For purposes of this Agreement the term "defect" shall mean the Product fails to operate or fails to conform to its specifications agreed to in writing by ACCES I/O. Any claim made pursuant to this Agreement shall be asserted or made in writing only by Buyer, not any of Buyer's customers or end users. Buyer shall comply with ACCES I/O's Standard Return Materials Authorization ("RMA") procedure for all warranty claims. This limited warranty only covers repairs at ACCES I/O's facilities, it does not include labor, transportation or other expenses to repair or reinstall warranted Products on site or at Buyer's premises.

ACCES I/O reserves the right to investigate any warranty claims to quickly resolve the problem or to determine whether such claims are proper. In the event that after repeated efforts ACCES I/O is unable to repair or replace a defective Product, then Buyer's exclusive remedy and ACCES I/O's entire liability in contract, tort or otherwise shall be the payment by ACCES I/O of Buyer's actual damages after mitigation, but shall not exceed the purchase price, tax, freight and insurance actually paid by Buyer for the defective Product.

This limited warranty shall not apply to any Product, or parts thereof, that
(a) has had the Serial Number, Model Number, or other identification markings altered, removed or rendered illegible;

(b) has been damaged by or subjected to improper installation or operation, misuse, accident, neglect and/or has been used in any way other than in strict compliance with ACCES I/O's operation and installation manual;

(c) has become defective or inoperative due to its integration or assembly with any equipment or products not supplied by ACCES I/O;

(d) has been repaired, modified or otherwise altered by anyone other than ACCES I/O, and/or has been subject to the opening of any sealed cabinet boxes or covers without ACCES I/O's prior written consent.

If any warranty claim by Buyer falls within any of the foregoing exceptions, Buyer shall pay ACCES I/O its then current rates and charges for such services.

THE ABOVE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. PLEASE REFER TO THE WARRANTY POLICY AND PROCEDURES CONTAINED IN ACCES I/O'S OPERATION AND INSTALLATION MANUAL.

12. CONFIDENTIALITY. Many aspects of the design, production and operation of the Products, in any form, are proprietary information and trade secrets of ACCES I/O ("Proprietary Rights"), and such Proprietary Rights shall not be disclosed or otherwise transferred by Buyer or Buyer's employees to any other person or entity at any time. Buyer shall not modify, reverse engineer, improve or otherwise change any Product or parts thereof, or any of ACCES I/O's Proprietary Rights related thereto, and shall not use, appropriate or copy any of ACCES I/O's Proprietary Rights, either for itself or for others. Buyer also agrees not to incorporate or in any way use any of ACCES I/O's Proprietary Rights or confidential information (disclosed separately or embodied in any of the Products) in its or any other party's products or businesses.

13. PROPERTY RIGHTS. ACCES I/O shall solely own and have exclusive worldwide right, title and interest in and to all United States and foreign patents, trademarks, service marks, copyrights, mask works, trade secrets, and all other intellectual and industrial property rights in any way related to the Products, to ACCES I/O's Proprietary Rights, and to all modifications, improvements and derivative works related thereto. Title to all of ACCES I/O's Proprietary Rights embodied in the Products shall always remain with ACCES I/O, and Buyer's use thereof shall be restricted under a non-exclusive license granted by ACCES I/O. Subject to Buyer's performance of all obligations hereunder, ACCES I/O hereby grants to Buyer a personal, non-exclusive, non-transferable and indivisible license to use ACCES I/O's Proprietary Rights only as they are embodied in the Products and for no other purpose. Buyer shall not remove ACCES I/O trademark notices, copyright notices, patent markings or mask work notices on or in the Products or on any other materials supplied by ACCES I/O. Paragraphs 11 and 12 shall survive the termination of this Agreement, and shall be specifically enforceable by injunctive and other relief against Buyer in the event of Buyer's breach since both

parties agree that ACCES I/O will be irreparably harmed and money damages would be inadequate compensation to ACCES I/O for Buyer's breach. In the event of such breach, ACCES I/O shall be entitled to injunctive relief against Buyer in addition to any other remedies to which it is entitled.

14. LIMITATION OF LIABILITY. ACCES I/O SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR EXEMPLARY DAMAGES SUFFERED BY BUYER AND/OR ANY END USER RELATED TO OR ARISING OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY AND/OR THE USE OR INABILITY TO USE THE PRODUCTS, INTEGRATION OF THE PRODUCTS WITH EQUIPMENT NOT PROVIDED BY ACCES I/O, LOSS OF GOODWILL OR PROFITS AND/OR FROM ANY OTHER CAUSE WHATSOEVER, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL ACCES I/O'S LIABILITY FOR ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT EXCEED AMOUNTS RECEIVED BY ACCES I/O FROM BUYER FOR THE PRODUCT OR SERVICE THAT IS THE SUBJECT OF SUCH CLAIM OR DISPUTE. ACCES I/O AND BUYER FURTHER AGREE THAT EACH AND EVERY PROVISION OF THIS AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES OR EXCLUSION OF DAMAGES IS EXPRESSLY INTENDED TO BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION SINCE THOSE PROVISIONS REPRESENT SEPARATE ELEMENTS OF RISK ALLOCATION BETWEEN THE PARTIES, AND SHALL BE SEPARATELY ENFORCED. BOTH PARTIES ALSO AGREE THAT THE PRICE OF THE PRODUCTS REFLECTS THE ALLOCATION OF RISK, WARRANTY AND LIMITATION OF LIABILITY PROVISIONS HEREIN.

UNLESS OTHERWISE AGREED IN WRITING BY ACCES I/O, THE ACCES I/O PRODUCTS SOLD HEREUNDER ARE NOT DESIGNED NOR INTENDED FOR ANY USE IN MEDICAL, LIFE SAVING OR LIFE SUSTAINING APPLICATIONS WHICH THE FAILURE OF THE ACCES I/O PRODUCT COULD CREATE A SITUATION WHERE PERSONAL INJURY OR DEATH MAY OCCUR. Should Buyer purchase or use ACCES I/O's Products for any such unintended use, Buyer shall indemnify and hold ACCES I/O and its directors, officers, subsidiaries, subcontractors and affiliates harmless against all claims, costs, damages, and expenses, and reasonable attorney fees arising out of, directly or indirectly, any claim of product liability, personal injury or death associated with such unintended use, even if such claim alleges that ACCES I/O or its subcontractor was negligent regarding the design or manufacture of the ACCES I/O Product or any of its parts.

15. WAIVER. ACCES I/O shall not be deemed to waive any default of any provision of this Agreement unless ACCES I/O signs a written waiver.

16. INDEMNITY. Buyer shall indemnify, defend and hold ACCES I/O harmless from all claims, damages, expenses, liabilities and losses, including without limitation attorney's fees and costs incurred that in any way arise out of or relate to (a) the manner in which Buyer and/or any of its customers or end users use or operate the Products; (b) any personal injuries, property damages or other losses resulting or occurring from the willful or negligent acts or omissions of Buyer, its customers or end users; (c) defects or other problems with other component parts, equipment or materials produced or supplied by anyone other than ACCES I/O and that may be used with the Products; and/or (d) Buyer's transactions with its customers, end users or other parties regarding the Products.

17. TERMINATION. Buyer shall not terminate or cancel any order, or portion thereof, after it is given to ACCES I/O without ACCES I/O's prior written consent in its sole discretion and subject to the condition that Buyer pays to ACCES I/O the sum of (1) the price of all Products previously delivered to Buyer, (2) ACCES I/O's actual costs incurred as a result of such termination (e.g., purchase of raw materials and other obligations), which ACCES I/O will attempt to keep as low as possible, and (3) a cancellation fee of twenty percent (15%) of such actual costs.

18. ATTORNEY'S FEES. In the event a dispute arises regarding this Agreement or the Products, the prevailing party shall be entitled to recover from the unsuccessful party actual attorney's fees and costs incurred.

19. ENTIRE AGREEMENT. Buyer agrees to all of the provisions of this Agreement by submitting its purchase order for the Products. This Agreement is the sole and entire agreement between the parties (except for the price or the shipment schedule for the Products contained in ACCES I/O's quotation or Buyer's purchase order accepted by ACCES I/O which shall be incorporated herein subject to the terms hereof) and shall supersede all prior or contemporaneous written or oral understandings, representations or communications and/or other terms in any purchase order or other document, now or hereafter delivered. The provisions of this Agreement shall apply to any and all purchase orders or requests for Products submitted by Buyer to ACCES I/O at any time in the future, without the need for either party to execute this Agreement. No modification of this Agreement shall be valid unless in writing and signed by an authorized representative of ACCES I/O.

20. GOVERNING LAW. This Agreement shall be construed and enforced according to the laws of the State of California.

21. ARBITRATION. Any dispute, controversy or claim ("Claim") arising out of or relating to this Agreement, any ACCES I/O quotation or any purchase order incorporating this Agreement by reference or to which this Agreement is attached, and any other purchase order issued by Buyer and accepted by ACCES I/O, or the breach,

enforcement, interpretation, validity or termination thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be settled by binding arbitration by JAMS/Endispute (“JAMS”) in accordance with JAMS Comprehensive Arbitration Rules and Procedures (the “Rules”). The arbitration shall be heard by the arbitrator selected in accordance with the Rules in San Diego County, California. Judgment upon any award rendered may be entered in any state or federal court in San Diego County having jurisdiction thereof. Within seven (7) calendar days after appointment the arbitrator shall set the hearing date, which shall be within ninety (90) days after the filing date of the demand for arbitration unless a later date is required for good cause shown, and shall order a mutual exchange of what he/she determines to be relevant documents and the dates thereafter for the taking of up to a maximum of five (5) depositions by each party to last no more than two (2) days in aggregate for each party. Both parties waive the right, if any, to obtain any award for exemplary or punitive damages or any other amount for the purpose of imposing a penalty from the other in any arbitration or judicial proceeding or other adjudication arising out of or with respect to this Agreement, or any breach hereof, including any claim that this Agreement, or any part hereof, is invalid, illegal or otherwise voidable or void. The arbitrator shall make his or her award no later than seven (7) calendar days after the close of evidence or the submission of final briefs, whichever occurs later.

22. EXPORT. Buyer shall not directly or indirectly export, transfer or in any way distribute any of the Products, or parts thereof, or any of ACCES I/O’s Proprietary Rights or technical data to any country or territory that is prohibited from receiving such materials under any applicable law of the United States. Buyer shall comply with all applicable laws and regulations, including, without limitation, all of the laws and regulations of any applicable agency of the United States government responsible for the administration of the United States export control laws and regulations and the United States Foreign Corrupt Practices Act of 1977, as amended. Buyer shall also be responsible for obtaining all export licenses or other approvals required to export or re-export the Products outside the United States. Buyer further indemnifies, defends and holds ACCES I/O harmless from all damages, claims, expenses, liabilities and losses including without limitation attorney’s fees and costs that in any way arise out of or relate to Buyer’s breach of this warranty and/or failure to comply with the provisions of this Section 21. ACCES I/O shall not be liable in the event any authorization of any governmental authority is delayed, denied, revoked, restricted and not renewed, and Buyer shall not be relieved thereby of its obligations to pay ACCES I/O for its Products or any other charges which are the obligations of Buyer under this Agreement.

23. INTEGRATION OF EQUIPMENT. ACCES I/O shall not be liable for any problems, damages or costs associated with the integration, installation or incorporation of the Products with equipment or materials not provided by ACCES I/O.

24. AUTHORITY. The persons accepting purchase order(s) on behalf of ACCES I/O and executing purchase order(s) by the Buyer warrant and represent that they have been

authorized by their respective board of directors or other governing bodies to bind their respective companies to all of the provisions of the purchase order(s) and this Agreement.

25. SURVIVAL. All of the provisions of Section 11, 12, 13, 15, 20 and 21 of this Agreement shall survive the termination or expiration of this Agreement.

26. ASSIGNMENT. Buyer shall not assign, transfer or otherwise encumber this Agreement or any part thereof without ACCES I/O's prior written consent.

27. SEVERABILITY. If any provision of this Agreement is held by an arbitrator or a court of competent jurisdiction to be void, invalid or unenforceable, the remaining provisions shall remain in full force and effect.