



# STANDARD TERMS AND CONDITIONS FOR SALE OF PRODUCTS OR SERVICES

Version 5.0 November 25, 2024

**1. COMPLETE TERMS.** Quotations provided by Space Information Laboratories, LLC (“SIL” or “Seller”) are governed by these Terms and Conditions for Sale of Products and Services (“Terms and Conditions”). This is an offer conditioned upon the Buyer’s acceptance of these Terms and Conditions, together with all attachments, exhibits, specifications, drawings, notes, instructions and other information, and incorporation of the same in the Buyer’s contract/purchase order (hereafter, the ‘contract’). Further, in case of a conflict between these terms and conditions, and the Buyer’s contract/purchase order terms, the conflict shall be resolved prior to the Seller’s acceptance of the contract.

**2. DEFINITIONS:** "Buyer" means the entity to which Seller is providing Products or Services under the Contract.

"Contract" means either (1) a contract agreement signed by both parties, (2) a purchase order signed by Buyer and accepted by Seller in writing. The Parties agree that in the event of any conflict, these Terms and Conditions shall take precedence over other documents included in the Contract.

"Contract Price" means the agreed price stated in the Contract for the sale of Products and Services, including adjustments (if any) in accordance with the Contract.

"Hazardous Materials" means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed or controlled pursuant to any national, state, provincial, or local law, statute, ordinance, directive, regulation or other legal requirement of the United States ("U.S.") or the country of the Site.

"Insolvent/Bankrupt" means that a party is insolvent, makes an assignment for the benefit of its creditors, has a receiver or trustee appointed for it or any of its assets, or files or has filed against it a proceeding under any bankruptcy, insolvency dissolution or liquidation laws.

"Products" means the equipment, parts, materials, supplies, software, and other goods Seller has agreed to supply to Buyer under the Contract. All items are Commercial Items/Commercial Services as defined in Federal Acquisition Regulation, 2.101 and Part 12 (see Article 25.2 below).

"Seller" means Space Information Laboratories, LLC, the entity providing products or performing services under the Contract.

"Services" means the services Seller has agreed to perform for Buyer under the Contract.

"Site" means the premises where Products are used or Services are performed, not including Seller's premises from which it performs Services.

"Terms and Conditions" means these "Terms and Conditions for Sale of Products and Services," including any relevant addenda, together with any modifications or additional provisions specifically stated in Seller's final quotation or specifically agreed upon by Seller in writing.

### 3. SELLER’S CONVEYANCE OF PRODUCT:

- Seller will convey the Product with good title, free from any lawful lien or encumbrance; and,
- Seller will supply Buyer with current material safety data sheets (MSDS) upon request.

**4. CONTRACT:** Performance will commence upon Buyer’s acceptance of Seller’s offer, and execution of a mutually acceptable contract by both parties. The contract shall identify the item(s) and services, if any, to be provided by Seller, unit quantities, part numbers, descriptions, applicable prices, method of shipment and requested delivery dates, as well as any flow-down terms that may be required by the U.S. Government. Contracts can be submitted via email, fax or mail. Email is the preferred media. Seller will acknowledge contract and provide notice of conflicts within 3 business days of receipt.

**5. QUOTATION OF PRICE/TERMS:** All written quotations of price and terms (“Quote”) made by the Seller will be valid for a period of thirty (30) calendar days after conveyance by Seller. Prices and terms are not subject to verbal changes or other agreements unless approved in writing by the Seller. Buyer shall have no right to access Seller’s cost or pricing data, nor other books or records, unless otherwise agreed in writing by both parties.



**6. CUSTOM-MADE PRODUCTS:** Buyer will indemnify and hold Seller harmless for all patent infringement and other intellectual property claims asserted against Seller relating to products manufactured to the Buyer's design or specification, and for products – if any - specially designed by Seller to meet Buyer's requirements. Additionally, Buyer may not cancel or return any such custom-made products, save for returns done in accordance with the terms and conditions herein due to defective material or workmanship.

**7. TAXES AND DUTIES:** Seller shall be responsible for all corporate taxes measured by net income due to performance of or payment for work under this Contract ("Seller Taxes"). Buyer shall be responsible for all other taxes, duties, fees, and other charges – if any - of any nature (including, but not limited to, consumption, gross receipts, import, property, sales, stamp, turnover, use, or value-added taxes, and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto, imposed by any governmental authority on Buyer or Seller or its subcontractors) in relation to the Contract or the performance of or payment for work under the Contract other than Seller Taxes ("Buyer Taxes"). The Contract Price does not include the amount of any Buyer Taxes. If Buyer deducts or withholds any Buyer Taxes, Buyer shall pay Seller additional amounts so that Seller receives the full Contract Price without reduction for any Buyer-paid Taxes. Buyer shall provide to Seller, within one month of payment, official receipts from the applicable governmental authority for deducted or withheld taxes.

**8. TERMS OF PAYMENT:** Terms of payment shall be as set forth in the Quote but shall be no longer than NET 30 days. Buyer shall make payment to Seller upon Buyer's receipt of products identified in the Contract. If Buyer fails to pay any sum owed hereunder when due, interest shall accrue to Seller's credit on such sum at the rate of 1 ½% compounded per month, or the highest rate allow by law, whichever is lower. If Seller, in its sole discretion, finds it necessary to employ an attorney and/or collection agent to collect any past due sum owed hereunder, it may collect, in addition to other sum owed hereunder, all applicable attorneys/agent's fees and costs.

- Credit cards accepted by Seller are MasterCard and VISA.

Seller is not required to commence or continue its performance unless and until all applicable Progress Payments and other payments due have been received by Seller. For each day of delay in receiving Progress Payments, Seller shall be entitled to a matching extension of the schedule. If at any time Seller reasonably determines that Buyer's financial condition or payment history does not justify continuation of Seller's performance, Seller shall be entitled to require full or partial payment in advance or otherwise restructure payments, request additional forms of Payment Security, suspend its performance, or terminate the Contract.

**9. CHANGES:** Each party may at any time propose changes in the schedule or scope of the contract. Seller is not obligated to proceed with any change until both parties agree upon such change to the contract in writing. Contract change shall describe the changes in scope and schedule, and the resulting changes in price, delivery and other provisions, terms, and conditions, as agreed to.

**10. CANCELLATION:**

10.1 Either party may cancel any Contract if the other party: (a) materially breaches the Order and does not take steps to correct such breach within thirty (30) days after receipt of written notice from the notifying party specifying such breach becomes insolvent, or enters or is placed in bankruptcy, receivership, liquidation, transfer of assets for the benefit of creditors, dissolution or similar proceeding, provided such event is not vacated or nullified within fifteen (15) days of such event; or (c) a significant portion of the assets of the other party necessary for the conduct of its business becomes subject to attachment, embargo or expropriation.

10.2 In the event that the Buyer's requirements for the Product(s) and/or Services goes away in its entirety, then the Buyer shall also have the right to cancel any Contract at its convenience upon providing SIL with written notice at least thirty (30) days in advance of such termination.

10.3 In the case where SIL is the defaulting party, Buyer shall be responsible for those units delivered, or those units completed but not yet delivered plus work in process at a prorated value based on price of finished Products, up to the point of termination.



10.4 In the case where Buyer is the defaulting party, or where Buyer has terminated a Contract at its convenience in accordance with clause 9, SIL shall be reimbursed for all costs incurred by SIL as a result of such termination, including, but not limited to any vendor cancellation costs, plus a reasonable profit thereon, which costs will be due to SIL not later than thirty (30) days from the date of termination and shall be collectable by SIL through whatever means necessary. Further, upon such termination, the parties agree that any and all rights, title, and interest in and to Foreground Intellectual Property developed and not paid for by the Buyer pursuant to this program will immediately be vested in SIL, and any and all limitations on the use thereof by SIL shall be immediately deemed null and void.

**11. RESPONSIBLE PRACTICES:** Buyer will (i) be solely responsible for determining the suitability of Seller's Product in Buyer's applications prior to use, (ii) familiarize itself and strictly comply with any Product literature, information and instructions Seller provides, including without limitation the MSDS for each product; (iii) adopt and follow safe and appropriate handling, storage, transportation, use, treatment and disposal practices with respect to the Products, and the containers thereof, including such special care and practices as Buyer's use of the Products requires including, without limitation, all such practices required by applicable federal, state and local government statutes, rules, regulations or ordinances; (iv) provide appropriate warnings to, and instruct, its employees, independent contractors, agents and customers of the precautions and safe use practices required in connection with the unloading, handling, storage, use, treatment, transportation and disposal of the Product, and the containers thereof, including without limitation information contained in Seller's most current MSDS; and (v) comply with applicable health, safety, security and environmental laws and take action necessary to avoid dangers to persons, property or the environment.

**12. INSPECTION:** Buyer shall promptly, and in any event prior to use, inspect Product for any damage to packaging, shortage, and non-conformance, if any, to this Contract. All Buyer claims against Seller for damage to packaging, shortage, or non-conformance that could reasonably have been discovered in the course of such investigation shall be waived by Buyer unless Buyer notifies the Seller within 30 days of receipt.

**13. INDEMNITY:** Customer will indemnify and hold Seller harmless for all claims, damages, and related costs, including reasonable legal fees and costs, arising out of Customer's noncompliance with any of its commitments under Article 12 above.

**14. FORCE MAJEURE / EXCUSED PERFORMANCE:**

14.1 Any delay or failure of both parties to perform its obligations hereunder shall be excused to the extent that it is caused by an event or occurrence beyond its reasonable control such as, by the way of example and not by way of limitation, acts of god, actions by any governmental authority at any level (whether valid or invalid), fires, floods, windstorms, explosions, riots, pandemics, natural disasters, wars, sabotage, labor problems (including lockouts, strikes, and slowdowns) at Seller's facility, its source plant or suppliers, inability to obtain power, material, labor, equipment, or transportation, or court injunction or Order. Seller shall inform Buyer, in writing, within fifteen (15) calendar days of the occurrence, about the circumstances in which a case of Force Majeure exists, as well as the cessation of the Force Majeure condition. Time for performance of Seller's contractual obligations shall be extended by a period at least equal to the duration of such Force Majeure event.

14.2 In the event that an event of Force Majeure exceeds a continuous period of sixty (60) calendar days from the date of notice being provided, and if it is not possible to agree on further mitigation actions, then either party may cancel the applicable Order upon providing the other party with written advanced notice of at least sixty (60) business days.

14.3 In the case where the Buyer is the terminating party, the Buyer shall be responsible for all costs set out in clause 10 d) above, and in the case where Seller is the terminating party; the Buyer shall be responsible for all costs set out in clause 10 c) above."

**15. TITLE AND RISK OF LOSS:** Title and risk of loss for the products provided by Seller and sold to Buyer will pass to Buyer upon delivery to the carrier at Seller's shipping facility.

**16. F.O.B / EX WORKS POINT:** All sales are made F.O.B origin (and for foreign buyers, FCA, per Incoterms 2020) at Seller's facility in Santa Maria, CA or as otherwise stated in the Quotation and resulting contract. Seller's liabilities cease as to delivery and risk of loss upon making delivery of the goods purchased hereunder to the carrier at the point of origin. Under these terms, the carrier is acting as the Buyer's agent.

**17. RETURNS:** No product may be returned without a Return Material Authorization (RMA) signed by Seller. Returned products must show the RMA number and the RMA number must be included on the bill of lading.



**18. CHOICE OF LAW:** This Contract will be governed by California law without reference to its principles of conflict of laws. Additionally, Seller and Buyer hereby submit to the exclusive jurisdiction, for any lawsuit arising out this Contract, in any State or Federal court in the state of California.

**19. EXPORTS:** Buyer agrees to comply with all export laws of the United States and of any country having jurisdiction over Buyer or the transactions contemplated by this Contract.

**20. ASSIGNMENT:** Neither Party shall assign its Contract or any interest therein or any rights thereunder without the prior written consent of the other Party.

**21. WARRANTY:**

21.1 Seller warrants that Products shall be delivered free from defects in material, workmanship and title and that Services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications.

21.2 The warranty for Products shall expire six months from first use or twelve (12) months from delivery to Buyer, whichever occurs first, except that software is warranted for ninety (90) days from date of delivery. The warranty for Services shall expire one (1) year after Seller's performance of the Service, except that software-related Services are warranted for ninety (90) days.

21.3 If Products or Services do not meet the above warranties, Buyer shall promptly notify Seller in writing prior to expiration of the warranty period. Seller shall (i) at its option, repair or replace defective Products, and (ii) re-perform defective Services. If despite Seller's reasonable efforts, a non-conforming Product cannot be repaired or replaced, or non-conforming Services cannot be re-performed, Seller shall refund, or credit monies paid by Buyer for such non-conforming Products and Services. Warranty repair, replacement or re-performance by Seller shall not extend or renew the applicable warranty period. Buyer shall obtain Seller's agreement on the specifications of any tests it plans to conduct to determine whether a non-conformance exists.

21.4 Seller shall bear the costs of access for Seller's remedial warranty efforts (including removal and replacement of systems, structures, or other parts of Buyer's facility), de-installation, decontamination, re-installation, and transportation of defective Products to Seller and back to Buyer.

21.5 The warranties and remedies are conditioned upon (a) Buyer's proper storage, installation, use, operation, and maintenance of Products, (b) Buyer keeping accurate and complete records of operation and maintenance during the warranty period and providing Seller access to those records, and (c) modification or repair of Products or Services only as authorized by Seller in writing. Failure to meet any such conditions renders the warranty null and void. Seller is not responsible for normal wear and tear.

21.6 This Article 21 provides the exclusive remedies for all claims based on failure of or defect in Products or Services, regardless of when the failure or defect arises, and whether a claim, however described, is based on contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability, or otherwise. The warranties provided in this Article 21 are exclusive and are in lieu of all other warranties, conditions and guarantees whether written, oral, express, implied, or statutory. **NO IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES**

**22. LIMITATION OF LIABILITIES:**

22.1 The total liability of Seller, if any, and Buyer's sole and exclusive remedy for damages for any claim of any kind whatsoever with respect to the Products or Services, as well as any supplemental sale of Products with respect to any of the Products covered thereby, and regardless of the legal theory or the delivery or non-delivery of Products, will not be greater than the total value of the Order with respect to which such claim is made.

22.2 Except in cases where the Buyer is in breach of Seller's confidential information or is in breach of Seller's Intellectual Property Rights, under no circumstances will either party be liable to the other for any indirect, special, incidental, multiple, punitive or consequential damages, or any damage deemed to be of an indirect or consequential nature, (including, but not limited to, costs of removal and reinstallation of items, loss of goodwill, loss of revenues or profits, loss of use, injury to persons or property) arising out of or related to its performance under an Order or related to any breach of this Agreement, whether based upon breach of the Order, warranty, or active or passive negligence, and whether such damages are labelled in tort, contract, or indemnity, even if Seller has been advised of the possibility of such damage.



**23. NOTICE OF CLAIMS:** WITHIN 60 DAYS AFTER BUYER LEARNS, OR SHOULD REASONABLY HAVE LEARNED, OF ANY CLAIM WITH RESPECT TO PRODUCT, BUYER WILL INFORM SELLER IN WRITING OF THE CLAIM OR THE CLAIM IS WAIVED. THIS SECTION SHALL NOT EXTEND THE WARRANTY PERIOD IN SECTION 21.

**24. INTELLECTUAL PROPERTY:**

24.1 Seller shall defend and indemnify Buyer against any claim by a non-affiliated third party (a "Claim") alleging that Products or Services furnished under this Contract infringe a patent in effect in the U.S., an EU member state or the country of the Site (provided there is a corresponding patent issued by the U.S. or an EU member state), or any copyright or trademark registered in the country of the Site, provided that Buyer (a) promptly notifies Seller in writing of the Claim, (b) makes no admission of liability and does not take any position adverse to Seller, (c) gives Seller sole authority to control defense and settlement of the Claim, and (d) provides Seller with full disclosure and reasonable assistance as required to defend the Claim.

24.2 Seller shall have no obligation or liability with respect to any Claim based upon (a) Products or Services that have been modified, or revised, (b) the combination of any Products or Services with other products or services when such combination is a basis of the alleged infringement, (c) failure of Buyer to implement any update provided by Seller that would have prevented the Claim, (d) unauthorized use of Products or Services, or (e) Products or Services made or performed to Buyer's specifications.

24.3 Should any Product or Service, or any portion thereof, become the subject of a Claim, Seller may at its option (a) procure for Buyer the right to continue using the Product or Service, or applicable portion thereof, (b) modify or replace it in whole or in part to make it non-infringing, or (c) failing (a) or (b), take back infringing Products or Services and refund the price received by Seller attributable to the infringing Products or Services.

24.4 Each party shall retain ownership of all Confidential Information and intellectual property it had prior to the Contract. All new intellectual property conceived or created by Seller in the performance of this Contract, whether alone or with any contribution from Buyer, shall be owned exclusively by Seller. Buyer agrees to deliver assignment documentation as necessary to achieve that result.

**25. US GOVERNMENT CONTRACTS:**

25.1 This Article 25 applies only if the Contract is for the direct or indirect sale to any agency of the U.S. government and/or is funded in whole or in part by any agency of the U.S. government.

25.2 Buyer agrees that all Products and Services provided by Seller meet the definition of "commercial-off-the-shelf" ("COTS") or "commercial item" as those terms are defined in Federal Acquisition Regulation ("FAR") 2.101 and Part 12. To the extent the Buy American Act, Trade Agreements Act, or other domestic preference requirements are applicable to this Contract, the country of origin of Products is unknown unless otherwise specifically stated by Seller in this Contract. Buyer agrees any Services offered by Seller are exempt from the (Service Contract Labor Standards (formerly, "Service Contract Act of 1965") (FAR 52.222-41). Buyer represents and agrees that this Contract is not funded in whole or in part by American Recovery Reinvestment Act funds unless otherwise specifically stated in the Contract. The version of any applicable FAR clause listed in this Article 26 shall be the one in effect on the effective date of this Contract.

25.3 If Buyer is an agency of the U.S. Government, then as permitted by FAR 12.302, Buyer agrees that all paragraphs of FAR 52.212-4 (except those listed in 12.302(b)) are replaced with these Terms and Conditions. Buyer further agrees the subparagraphs of FAR 52.212-5 apply only to the extent applicable for sale of COTS and/or commercial items and as appropriate for the Contract Price.

25.4 If Buyer is procuring the Products or Services as a contractor, or subcontractor at any tier, on behalf of any agency of the U.S. Government, then Buyer agrees that FAR 52.212-5(e) or 52.244-6 (whichever is applicable) applies only to the extent applicable for sale of COTS and commercial products and commercial services and as appropriate for the Contract Price.