

STANDARD TERMS & CONDITIONS

1. **General:** The terms and conditions included in this document constitute the entire agreement between the parties with respect to the subject matter hereof and supersede any prior representations or agreements, oral or written and all other communications between the parties relating to the subject matter hereof. All sales by Quackcom LLC (“Seller”) to the customer (“Buyer”), are expressly conditioned by and under these terms and conditions (The “Terms”). Acceptance of Buyer’s order is expressly conditioned upon Buyer's acceptance of or assent to these Terms, which shall be established by a written acknowledgment, by implication, or by acceptance or payment for products ordered hereunder. Seller's failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of these Terms. Any changes in these Terms must specifically be agreed to in writing and signed by an officer of Seller before becoming binding. Receipt by Buyer of any products sold hereunder shall be conclusively deemed acceptance of these Terms. These terms and conditions govern the sale of product in the United States.

2. **Availability & Pricing:** Availability & pricing are subject to change. Final prices are determined by prevailing cost at time of order fulfillment, after payment is received, & may result in additional invoices prior to product delivery.

3. **Compensation & Payment Terms:** Buyer agrees to fully pay Seller any and all invoices within thirty (30) days of the date of any such invoices. Any payment not received within thirty (30) days of an invoice shall be subject to an additional charge at the rate of 1.5% per month of outstanding balance due or the highest rate of interest permitted by applicable law, whichever is less. Seller may, at its discretion and without waiting any rights, elect to suspend performance of any and all work if any payment is not received within ten (10) days after the due date. In the event that any payment due Seller is collected at law or through, or under advice from, an attorney-at-law, or through a collection agency, Buyer agrees to pay all costs of collection, including without limitation, all court costs, and reasonable attorney’s fees. If Buyer opts to pay Seller for an invoice with a credit card, Seller reserves the right to add a 3% processing fee to the total cost of work.

4. **Sales Taxes:** Unless specifically itemized in the Proposal, estimated sales taxes and other taxes due city, state, or county government applicable in the United States may not be included in the Proposal. All such taxes shall be the responsibility of the Buyer. For services to be provided outside of the United States, all Value Added Taxes (VAT), General Service Taxes (GST), Consumption Taxes, Import/Export Duties, Withholding and any other taxes or fees due to a sovereign nation are excluded and are the responsibility of the Buyer.

5. **Bonds:** If payment and performance bonds are required by Buyer in writing in advance of execution of the Agreement by Buyer, the total price set forth in the Proposal shall include an

Administration Fee of 2.5% of what the total price would have been without such bond (excluding applicable sales tax). If such bond is not required by Buyer until after the execution of the Agreement by Buyer, Contractor shall enter into a Change Order reflecting an administration fee of 2.5% of the total price of the Agreement (excluding applicable sales tax). Seller shall not be required to obtain any bonds until such Change Order has been executed by Buyer.

6. Insurance: Certificates of Insurance are available upon Buyer request. Upon Buyer request, such COI shall name Buyer and all other parties in the “Contract Chain” as additional insureds. Any Buyer-requested insurance beyond what Seller normally carries is excluded from the pricing in the proposal and shall be paid for by Buyer.

7. Schedule Dates: Seller shall diligently endeavor to make timely delivery and installation and otherwise to timely complete the Services according to a mutually agreed upon schedule. Except as expressly provided in the Proposal, Seller shall, under no circumstances, be deemed to be in default hereunder or be liable for damages, special, consequential, or otherwise, resulting from delays in delivery, installation, or other completion of the Services. Minor omissions or variances in performance of the Services, which do not materially and adversely affect the Buyer’s use of installed systems, equipment, goods, or materials, or the operation thereof, shall not be deemed to have postponed substantial or final completion. Unless otherwise arranged in writing, Services shall be performed during normal business hours (7:30am to 5pm, Monday-Friday, except holidays). Services performed outside of normal business hours will result in Seller’s then current surcharges for Services. Buyer shall notify Seller of any cancellations forty-eight (48) hours in advance of any scheduled service call. Failure to do so will result in additional service fee charged to Buyer.

8. Work and Services to Be Performed/Provided: Seller agrees to perform the work and provide the goods, software, licenses, and services that are described in the Proposal. If the Proposal contains options, then Seller shall only perform those options that have been chosen by the Buyer. All items to be performed pursuant to the Proposal are referred to herein as the “Services”. Seller is solely responsible for choosing the manner and methods of performing the Services by its employees, agents, and/or independent contractors. Equal quality products, materials, and parts from different manufacturers may be substituted to overcome delivery problems or replacement of discontinued items. The Proposal, when accepted by the Buyer, shall be considered the “Agreement” between the parties.

9. Installation/Site Conditions: For any Services to be performed on-site, Seller will arrange for such Services in accordance with specifications, drawings and instructions provided by Buyer, which are considered part of this Agreement. Whenever applicable, suitable foundations, wall openings, curbing holes, pits, tunnels, culvert piping, grouting, surrounding masonry and concrete, canopies and architectural enclosures, and sunscreens shall be constructed by others at Buyer’s cost. Unless otherwise set forth in the Scope of Work, Buyer shall also provide at its own expense the power and lighting that is required for proper operation of equipment. Buyer

represents to Seller that it has an interest in the real estate on which the equipment is to be installed and that has the authority to and hereby authorizes Seller to do the work as provided in this Agreement.

10. Changes to Service: Except as otherwise set forth in a separate Appendix to this Agreement, any changes to the Agreement or to the Services will be by written change order, amendment or rider signed by duly authorized representatives of Buyer and Seller that describes the changes and sets forth the amount of money to be added or removed from the Total Price and/or the adjustment of time to complete the Services (a "Change Order"). Seller shall have no obligation to perform any change to Services in the absence of a Change Order. Buyer may not cancel any equipment specially ordered for Buyer or for labor and shipping costs already incurred. Buyer shall be responsible for any restocking fees and shipping and handling charges incurred by Seller as a result of any requested changes to Services. Change Orders shall include additional terms and conditions if the nature of the changes are outside of the scope of the original agreement.

11. Independent Contractors: Seller is an independent contractor and not an employee, agent, joint venture, or partner of Buyer. Nothing in this Agreement shall be interpreted or construed to create or establish the relationship of employer and employee between the parties or any employee or agents of Seller. Since Seller is an independent contractor to Buyer, Seller shall retain the right to perform work and services for other parties during the term of this agreement. Neither party shall have the power, nor shall either party represent that it has the power, to bind the other party to or to assume or create any obligations, express, or implied, on behalf of the other party. Buyer will not provide fringe benefits, including but not limited to, life disability, and health insurance, paid vacation, worker's compensation, or any other employee benefits, for the benefit of Seller's employees, agents, or independent contractors.

12. Indemnification: Each party agrees to indemnify, defend and hold harmless the other party from and against any and all claims, actions, suits, liabilities, costs, and expenses (including attorney's fees) brought against either of them for or on account of bodily injury (including death) or property damage, to the extent that such claims, actions, suits, liabilities, costs, and expenses (including reasonable attorney's fees) arise out of or result from negligent or willful acts or omissions of the indemnifying party, its employees, agents, or independent contractors, in the performance of its obligations under this Agreement. By entering in the Agreement, Buyers acknowledges that the indemnity obligations in this Section were mutually negotiated.

13. Mutual Waiver of Consequential Damages: Seller and Buyer waive claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes damages incurred by the Buyer for loss of use, income, profit, loss by reason of facility shut down or fluctuation in facility service or operation, loss of electronic or other data, Buyer claims, or other economic loss of or personal injury in connection with or arising out of the existence, furnishing, functioning or use of the work, Services, goods, and/or materials provided by Seller, including any damages arising from any theft by a third party.

14. **Assignment:** Neither Buyer nor Seller may assign this Agreement, or the obligations created thereby without the prior written consent of the other party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Seller may assign this Agreement to a company under common ownership or control and may subcontract with third parties to perform any or all of its obligations under this Agreement.

15. **Binding on Successors:** Subject to any restrictions stated in any other provision of the Agreement, the Agreement will be binding on and will inure to the benefit of the Parties and their respective successors and permitted assigns. None of the provisions of the Agreement are intended to provide any rights or remedies to any person (including without limitation any employees, Buyers, or creditors, of either of the parties hereto), other than the Parties and their respective successors and permitted assigns.

16. **Force Majeure:** Seller shall not be responsible for any delays or costs caused by acts of nature or God, including but not limited to force majeure events, or for any other cause beyond Seller's reasonable control. Seller shall be entitled to a Change Order and reimbursement for all demonstrable costs incurred due to Force Majeure and an extension of time equivalent to the delay caused by Force Majeure.

17. **Limited Warranty and Limitations:** Products distributed by Seller are warranted by the third-party manufacturer or pursuant to the terms of the warranty included in the packaging. Seller assigns to the Buyer those warranties and only those warranties extended by such third-party manufacturers or vendors. Some manufacturer warranties stipulate that attempts to troubleshoot issues must be performed before a warranty is honored. Seller's labor costs to troubleshoot issues and any materials that may be needed in the course of troubleshooting will be billable to the Buyer.

THERE ARE NO REPRESENTATIONS, WARRANTIES, OR CONDITIONS, EXPRESS OR IMPLIED, OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. IN NO CASE SHALL SELLER BE LIABLE TO ANYONE FOR ANY PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES FOR BREACH OF THIS OR ANY OTHER REPRESENTATION, WARRANTY OR CONDITION, EXPRESS OR IMPLIED, OR UPON ANY OTHER BASIS OF LIABILITY WHATSOEVER. HOWEVER, IF SELLER IS HELD LIABLE WHETHER DIRECTLY OR INDIRECTLY FOR ANY LOSS OR DAMAGE WITH RESPECT TO THE PRODUCTS IT SELLS, REGARDLESS OF CAUSE OF ORIGIN, ITS MAXIMUM LIABILITY SHALL NOT IN ANY CASE EXCEED THE PURCHASE PRICE OF THE PRODUCT UNDER THE SPECIFIC ORDER, WHICH SHALL BE FIXED AS LIQUIDATED DAMAGES AND NOT AS A PENALTY AND SHALL BE THE COMPLETE AND EXCLUSIVE REMEDY AGAINST SELLER.

18. Return Policy: Hardware/software sales are final unless otherwise noted by a manufacturer's specific warranty or return policy. Should a return or exchange be needed, Buyer will assume responsibility of all fees, including but not limited to associated restocking & shipping fees. All equipment must be in its original packaging with proper UPC codes and receipts when returned or exchanged. Time limits for returns/exchanges will be based on individual manufacturer's standards and follow the terms listed under the Limited Warranty and Limitation section in this agreement.

19. Loaner Equipment Policy: Seller equipment that is loaned to a Buyer is to be returned within 2 months of the installation date at Buyer premises and the initial deposit will be refunded. If equipment is not returned within the initial 2-month period, deposit is nonrefundable & a monthly rental fee will be assessed.