

## Product Sales

**THE TERMS AND CONDITIONS OF PRODUCT SALES ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS IN ANY FORM DELIVERED BY YOU ("CUSTOMER") ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO THEM AND REJECTION OF THEM IS HEREBY GIVEN.**

**BY ACCEPTING DELIVERY OF THE PRODUCTS OR BY ENGAGING THE REDESIGN GROUP AFFILIATE IDENTIFIED ON THE INVOICE, STATEMENT OF WORK OR OTHER REDESIGN DOCUMENTATION ("SELLER") TO PROVIDE PRODUCT, CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS, UNLESS CUSTOMER AND SELLER HAVE SIGNED A SEPARATE AGREEMENT, IN WHICH CASE THE SEPARATE AGREEMENT WILL GOVERN.**

### **Important Information About These Terms and Conditions**

These Terms and Conditions constitute a binding contract between Customer and Seller and are referred to herein as either "Terms and Conditions" or this "Agreement". Customer accepts these Terms and Conditions by making a purchase from or placing an order with Seller or shopping on any Seller Website (each, a "Site") or otherwise requesting products (the "Products"). These Terms and Conditions are subject to change without prior notice, except that the Terms and Conditions posted on a Site at the time Customer places an order or signs a Statement of Work will govern the order in question unless otherwise agreed in writing by Seller and Customer.

Customer may issue a purchase order for administrative purposes only. Additional or different terms and conditions contained in any such purchase order will be null and void. No course of prior dealings between the parties and no usage of trade will be relevant to determine the meaning of these Terms and Conditions or any purchase order or invoice, or any document in electronic or written form that is signed and delivered by each of the parties. This Agreement contains the entire understanding of the parties with respect to the matters contained herein and supersedes and replaces in its entirety any and all prior communications and contemporaneous agreements and understandings, whether oral, written, electronic or implied, if any, between the parties with respect to the subject matter hereof.

## I. DEFINITIONS

- (a) **“Affiliate(s)”** means, with respect to Redesign, entities that Control, are Controlled by, or are under common Control with Redesign; and, with respect to Customer, entities both that Control, are Controlled by, or are under common Control with Customer.
- (b) **“Claim”** means any civil, criminal, administrative, regulatory or investigative action or proceeding commenced or threatened by a Third Party, including Governmental Authorities and regulatory agencies, however described or denominated.
- (c) **“Confidential Information”** means any information or data of a confidential nature of a Party, its Affiliates or a third party in oral, electronic or written form that the receiving Party knows or has reason to know is proprietary or confidential and that is disclosed by a Party in connection with this Agreement or that the receiving Party may have access to in connection with this Agreement, including but not limited to the terms and conditions of this Agreement and each Statement of Work and/or Purchase Order. Confidential Information shall not include information that: (i) is or becomes publicly available through no breach of this Agreement by the receiving Party; (ii) was rightfully in the receiving Party's possession prior to disclosure by the disclosing Party; (iii) is rightfully received by the receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by the receiving Party without use of or reference to the Confidential Information.
- (d) **“Delivery Date”** means the proposed date of delivery of the Products, which may be set out in the attached Exhibit(s).
- (e) **“Dispute”** means any dispute, controversy, or Claim, including situations or circumstances in which the Parties are required to mutually agree on additions, deletions or changes to terms, conditions, or Charges, arising out of, or relating to, the Agreement.
- (f) **“Force Majeure Event”** means any event or circumstance arising which is beyond the reasonable control of Redesign (including but not limited to any industrial dispute affecting any third party, carrier delays, embargos, acts of God or acts or laws of governmental regulations or government agencies, severe weather conditions, fire, flood, disaster, failure of power, civil riot, war or terrorism).
- (g) **“Governmental Authority”** means any nation or government, any federal, state, province, territory, city, town, municipality, county, local or other political subdivision thereof or thereto, any quasi-Governmental Authority, and any court, tribunal, arbitral body, taxation authority, department, commission, board, bureau, agency, instrumentality thereof or thereto or otherwise which exercises executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

- (h) **“Intellectual Property Rights” or “IPR”** means any and all of the following rights in (i) patents, unpatented inventions, designs and trade marks (whether registered or unregistered), copyright, database rights and know how, trade secrets, inventions, discoveries, utility models, goodwill in any trade or service name or get-up; (ii) all other intellectual property or proprietary rights and similar or equivalent rights anywhere in the world which currently exist or are recognized in the future; and (iii) applications, reversions, extensions and renewals in relation to any such rights.
- (i) **“Law”** means all applicable laws (including those arising under common law), statutes, codes, rules, regulations, reporting or licensing requirements, ordinances and other pronouncement having the effect of law of the United States, any foreign country or any domestic or foreign state, county, city, province, or other political subdivision, including those promulgated, interpreted, or enforced by any Governmental Authority.
- (j) **“Losses”** means any judgments, settlements, awards, losses, charges, liabilities, penalties, interest claims (including Taxes and all related interest and penalties incurred directly with respect thereto), however described or denominated, and all related reasonable costs, expenses and other charges (including all reasonable attorneys’ fees and reasonable internal and external costs of investigations, litigation, hearings, proceedings, document and data productions and discovery, settlement, judgment, award, interest and penalties), however described or denominated.
- (k) **“Products”** means items such as, but not limited to, hardware, software, and subscriptions that are commercially available through Redesign’s or manufacturer’s website or otherwise.
- (l) **“Purchase Order” or “PO”** means a document that is in electronic or written form and that contains an offer by Customer to purchase pursuant to this Agreement at a specified price.
- (m) **“Statement of Work” or “SOW” or “Order Form” or “Quote”** meaning a document in electronic or written form that is created by Redesign for the delivery of the Products.
- (n) **“Taxes”** means any applicable sales, use, transaction, value added, goods and services tax, harmonized sales tax, withholding tax, excise or similar taxes, and any foreign, provincial, federal, state or local fees or charges (including but not limited to, environmental or similar fees) and any income or business tax liability, including any penalties and interest in respect thereof, imposed on, in respect of or otherwise associated with any transaction hereunder, or the Purchased Items (except taxes on or measured by the net income of Redesign).
- (o) **“Third Party Supplier”** means a third party manufacturer and/or licensor of Products.

## II. PRODUCTS

- (a) Subject to the terms of this Agreement, Redesign may provide certain Products for Customer as described generally in this Agreement and as more particularly described in a Purchase Order or Quote. All pricing for Products will be as established on Redesign's quotes, subject to these terms and conditions. Any software that is owned by Third Party Suppliers shall be subject to such terms and conditions as determined by such Third Party Suppliers. Customer shall receive the terms with respect to such Third party software directly from the Third Party Supplier.
- (b) Title to Products and risk of loss or damage during shipment pass to Customer upon delivery to the destination specified on the applicable PO (F.O.B. Destination, freight prepaid and added). Notwithstanding the foregoing, in the case where Customer provides its carrier account number to Redesign or Customer selects a carrier that does not ship regularly for Redesign, title and risk of loss pass to Customer upon delivery by Redesign to the carrier (F.O.B. Origin, freight collect). Notwithstanding the foregoing, title to third party software, the licenses to which are resold by Redesign, will remain with the third party. Customer's rights in such software are specified in the license agreement between such third party and Customer.
- (c) All Product orders are subject to Product availability.
- (d) Redesign shall use commercially reasonable efforts to assist in the delivery of the Products by the Delivery Date, but shall not be liable for any cost or damage caused by late or non-delivery. For the avoidance of doubt, dates and times for the delivery of Products are estimates only, and time shall not be of the essence for the delivery of Products. Any delay in delivery of Products shall not give Customer the right to reject the Products or treat this Agreement as repudiated.
- (e) Customer's return of any Product will be governed by the Manufacturer's return policy which can be made available upon request. Redesign reserves the right to deliver Products in installments, and the terms and conditions of this Agreement shall apply to each such delivery and each delivery of the Products shall be separately invoiced and payable in accordance with Section 3.
- (f) Notwithstanding any other provision of this Agreement, each party shall retain responsibility for its compliance and shall comply with all applicable export control laws and economic sanctions programs relating to its respective business, facilities and provision of services to third parties. In performing their respective obligations under this Agreement neither party will be required to undertake any activity that would violate any applicable Laws or mandatory regulations, including any applicable export control laws and economic sanctions programs.
- (g) If a transaction hereunder involves an export of items (including but not limited to, commodities, software and/or technology) from the U.S., Canada or the United Kingdom subject to the Export Administration Regulations (US), the Export and Import Permits Act (Canada), the Council Regulation (EC) No. 428/2009, or the UK Export Control Order 2008,

each as amended, as applicable, such export shall be in accordance with such applicable laws or regulations. Customer agrees that it will not divert, use, export or re-export any such items contrary to any applicable Laws of the U.S., Canada, European Union (EU), United Kingdom or Hong Kong. Customer expressly acknowledges and agrees that it will not export, re-export, dispose of, or otherwise provide such items directly or indirectly: (a) to any entity or person within any country that is subject to U.S., Canadian, EU, United Kingdom, Hong Kong, United Nations, or United Nations Security Council economic sanctions, as applicable, imposing comprehensive embargoes without first obtaining any required prior government authorization; (b) to entities and persons that are ineligible under U.S., Canadian, EU, UK or Hong Kong law, as applicable, to receive such items; or (c) for any prohibited end-use. In addition, manufacturers' warranties may vary or be null and void for Products exported from the U.S., Canada, the United Kingdom or another EU Member State, as applicable.

- (h) Customer acknowledges that Redesign is not the manufacturer of the Products and that the only warranties offered are those of the manufacturer, not Redesign or its Affiliates. In purchasing the Products, Customer relies on the manufacturer's specifications only and not on any statements or images that may be provided by Redesign.
- (i) The copyright and all other Intellectual Property Rights of whatever nature in the Products shall be and remain vested in the Third Party Supplier. Customer shall not remove any notices of copyright or other Intellectual Property Rights contained on or in the Products.

### III. PAYMENT

- a) Redesign shall issue an invoice to Customer. All invoiced amounts and payments shall be made in United States Dollars. Customer will pay invoices containing amounts authorized by the SOW and/or PO within thirty (30) days of the date of the invoice. Any objections to an invoice must be made to Redesign point of contact within fifteen (15) days after the invoice date. Redesign may invoice Customer separately for partial shipments of Purchased Items. Customer agrees to pay interest on all past- due sums at the lower of one and one-half percent (1.5%) per month calculated daily and compounded monthly (19.56% per annum) or the highest rate allowed by law. Customer hereby grants to Redesign a security interest in the Products to secure payment in full. Customer authorizes Redesign to file a financing statement reflecting such security interest. Customer's right to possession of the Products shall terminate immediately upon the occurrence of any failure by Customer to pay an invoice in accordance with this Section 3.

- b) Redesign's pricing for the provision of Products are exclusive of applicable Taxes. Customer will pay for, and shall indemnify, defend and hold Redesign, its Affiliates, and its and their directors, officers, employees and agents harmless from any loss (of any kind), cost, damage or expense (including, but not limited to, attorneys' fees and expenses) arising from any applicable Taxes. Customer must claim any exemption from such Taxes, fees or charges at the time of purchase and provide Redesign with any necessary supporting documentation.
- c) In the event of a default in the payment of an invoice, Customer will be responsible for all of Redesign's costs of collection, including, but not limited to, court costs, filing fees and attorneys' fees.
- d) In addition to any other means available to place orders, Customer may issue a PO to Redesign. POs are not binding on Redesign until accepted by Redesign, and all Product orders are subject to Product availability. Any issuance of a PO is for administrative purposes only. Any additional or different terms and conditions contained in any PO, even if executed simultaneously hereof, will be null and void.
- e) Customer shall make all payments under each SOW and/or PO without withholding or deduction of, or in respect of, any Tax unless required by applicable Law. If any such withholding or deduction is required, Customer shall pay to Redesign such additional amount as will ensure that Redesign receives the same total amount that it would have received if no such withholding or deduction had been required.
- f) In the event of a payment default, Redesign reserves the right to suspend the delivery of applicable Products.

#### **IV. WARRANTY**

- a) REDESIGN SHALL NOT BE LIABLE FOR ANY PRODUCTS PROVIDED BY THIRD PARTY SUPPLIERS IDENTIFIED OR REFERRED TO THE CUSTOMER BY REDESIGN IN THIS AGREEMENT OR OTHERWISE.
- b) EXCEPT AS SET FORTH HEREIN, AND SUBJECT TO APPLICABLE LAW, REDESIGN MAKES NO OTHER, AND EXPRESSLY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES, CONDITIONS AND COVENANTS, EITHER EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF FITNESS FOR

A PARTICULAR PURPOSE, MERCHANTABILITY, SATISFACTORY QUALITY, DURABILITY, ACCURACY OR NON-INFRINGEMENT) ARISING OUT OF, OR RELATED TO, THE PURCHASED ITEMS OR THEIR PERFORMANCE OR NON-PERFORMANCE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY. THE SOLE WARRANTIES, IF ANY, FOR SUCH EQUIPMENT AND PRODUCTS ARE THOSE PROVIDED BY THE MANUFACTURER OR ORIGINAL VENDOR, AND CUSTOMER AGREES TO LOOK SOLELY TO SUCH MANUFACTURER OR ORIGINAL VENDOR FOR ANY WARRANTY CLAIM RELATING TO THE EQUIPMENT AND PRODUCTS.

- c) CUSTOMER ACKNOWLEDGES THAT NO REPRESENTATIVE OF REDESIGN OR OF ITS AFFILIATES IS AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY THAT IS NOT IN THIS AGREEMENT.
- d) Redesign makes no warranties to Customer and Customer hereby acknowledges that Redesign makes no warranties in regard to the applicability of all Laws affecting, without limitation the manufacture, performance, sale, packaging and labelling of the Products which are in force within Customer's territory or any part of it ("Local Regulations"). Customer must satisfy itself that Products comply with the Local Regulations in force from time to time.

## V. CONFIDENTIAL INFORMATIONS

### a) Confidential Information

Each Party anticipates that it may be necessary to provide access to Confidential Information to the other Party in the performance of this Agreement. In the event that the Parties have executed a separate Mutual Non-Disclosure Agreement (the "MNDA"), that MNDA will take precedence over this Section.

### b) Use of Confidential Information

Standard of Care. Each Party agrees that it will maintain the confidentiality of the other Party's Confidential Information for a period of three (3) years following the termination of this Agreement and will do so in a manner at least as protective as it maintains its own Confidential Information of like kind but in no event with less than a reasonable degree of care. Disclosures of the other Party's Confidential Information will be restricted (i) to a Party's personnel (including personnel employed by such Party's Affiliates) and subcontractors with a need to know such Confidential Information in connection with the performance of this Agreement, provided such parties are bound by obligations of confidentiality



substantially similar to the terms of this Agreement, and (ii) to a Party's business, legal and financial advisors, provided such parties are bound by obligations of confidentiality substantially similar to the terms of this Agreement. Each Party agrees not to use any Confidential Information of the other Party for any purpose other than the business purposes contemplated by this Agreement. At the written request of a Party or termination of this Agreement, the other Party will either return, or certify the destruction of, such Party's Confidential Information.

**c) Required Disclosures**

If a receiving Party is required by law, rule or regulation, or requested in any judicial or administrative proceeding or by any governmental or regulatory authority, to disclose Confidential Information of the other Party, the receiving Party will give the disclosing Party prompt notice of such request so that the disclosing Party may seek an appropriate protective order or similar protective measure and will use reasonable efforts to obtain confidential treatment of the Confidential Information so disclosed.

## **VI. LIMITATION OF LIABILITY; ACTIONS**

EXCEPT FOR CONFIDENTIALITY OBLIGATIONS AS AGREED UPON BETWEEN THE PARTIES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, IN NO EVENT WILL EITHER PARTY, ITS AFFILIATES OR ITS OR THEIR SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: ANY LOSS OF PROFITS OR TIME, LOSS OF SALES OR TURNOVER, LOSS OF USE, LOSS OR DAMAGE TO REPUTATION, BUSINESS, REVENUES OR SAVINGS, LOSS, DAMAGE OR CORRUPTION OF DATA OR SOFTWARE, OR SYSTEM DOWNTIME, COMPUTER FAILURE, OR MALFUNCTION, OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

THE ENTIRE LIABILITY OF EACH PARTY AND ITS AFFILIATES FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL NOT EXCEED THE LESSER OF (A) THE UNITED STATES DOLLAR AMOUNT PAID BY CUSTOMER FOR THE SPECIFIC PURCHASED PRODUCT(S) GIVING RISE TO THE CLAIM OR (B) \$50,000.00.



## VII. TERMINATION

### a) **Termination for Breach**

Either Party may terminate this Agreement at any time in the event of a breach by the other Party of a material covenant, commitment or obligation under this Agreement that remains uncured: (i) in the event of a monetary breach, ten (10) calendar days following written notice thereof; and (ii) in the event of a non-monetary breach, after thirty (30) days following written notice thereof. Such termination shall be effective immediately and automatically upon the expiration of the applicable notice period, without further notice or action by either Party. Termination shall be in addition to any other remedies that may be available to the non-breaching Party.

### b) **Obligations upon Termination**

Upon termination, all rights and obligations of the parties will automatically terminate except for any right of action occurring prior to termination, payment obligations and obligations that expressly or by implication are intended to survive termination.

## VIII. MISCELLANEOUS

### a) **General**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and shall supersede all previous communications, representations, understandings, and agreements, either oral or written, between the parties thereof. It is agreed and warranted by the Parties that the individuals signing this Agreement on behalf of the respective Parties are authorized to execute such an agreement. No further proof of authorization shall be required. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by each Party. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement will survive and be construed in a manner consistent with the intent of this Agreement. Each term and provision of this Agreement that should by its sense and context survive any termination or expiration of this Agreement, shall so survive regardless of the cause and even if resulting from the material breach of either Party to this Agreement. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver may be binding unless executed in writing by the Party making the waiver. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware. The relationship between Redesign and Customer is that of independent contractors and not that of employer/employee, agency, partnership or joint venture. Each Party warrants and agrees that it will

comply with all Laws applicable to such Party in its performance of its obligations under this Agreement.

**b) Disputes**

**Cumulative Rights.** Customer and Redesign are solely obligated to address and resolve all disputes associated with this Agreement, including any damages or injuries to the Customer's Affiliates. Except in the case of nonpayment, neither Party may institute any action in any form arising out of this Agreement more than one (1) year after the cause of action has arisen. The rights and remedies provided under this Agreement are cumulative, are in addition to, and do not limit or prejudice any other right or remedy available at law or in equity.

**c) Cooperation**

Redesign shall use reasonable endeavors to provide such cooperation as may be reasonably required by any Third Party Supplier(s) of Products to Customer so as to ensure that all Products can be provided to Customer in a coordinated, effective and timely manner. Redesign shall be entitled to charge Customer its reasonable pre-approved (such approval not to be unreasonably withheld or delayed) costs of complying with this Section. Redesign shall not be liable for any loss or damage suffered or incurred by Customer arising from Redesign's delay or failure to fulfill or otherwise discharge any of its obligations under this Agreement or any SOW and/or PO where such delay or failure is caused by any non-performance of its obligations by Customer, Force Majeure Event, or industrial dispute affecting Redesign's ability to perform.

**d) Headings**

**Construction.** The headings/captions appearing in this Agreement have been inserted for the purposes of convenience and ready reference, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the provisions to which they appertain. This Agreement is the result of negotiations between the Parties and their counsel. Accordingly, this Agreement shall not be construed more strongly against either Party regardless of which Party is more responsible for its preparation, and any ambiguity that might exist herein shall not be construed against the drafting Party.