



## TERMS AND CONDITIONS OF PURCHASE, SALE AND LICENSE

### 1. DEFINITIONS

The term "Seller" as used herein shall mean Salunda Ltd, and/or its present and future subsidiaries, and "Buyer" means the third party that has placed a purchase order, i.e. Purchaser / licensee of the Products.

"Contract" refers to the below printed Terms and Conditions of Sale and License.

"Equipment" means the hardware component of Seller's product offering. .

Salunda "Permitted Use" means the internal use by the Buyer for operation of the Equipment.

"Product(s)" means any configuration of Equipment and Software, sold or licensed by Seller to Buyer pursuant to terms of the Contract.

"Software" means all the software and documentation, in any form, provided by Salunda for use with Salunda's equipment, except for software and documentation that is otherwise subject to a separate license agreement from Salunda.

"Quotes" will be firm for thirty (30) days from the date the quotation is made unless indicated differently by Seller.

All orders and quotes will be subject to terms and conditions printed below.

### 2. SCOPE

The terms and conditions of sale contained herein, and as amended by Seller from time to time, apply to Seller's quotations and purchase orders placed by Buyer on Seller. These terms and conditions may in some instances conflict with some of the terms and conditions on Buyer's form of purchase order or otherwise specified by the Buyer or these terms and conditions may cover matters not addressed in Buyer's documentation. Therefore, acceptance of the Buyer's order is made only on the express understanding and condition that insofar as the terms and conditions of this acceptance conflict with any terms and conditions of the Buyer's order or cover matters not addressed in Buyer's documentation, Seller's terms and conditions shall govern, irrespective of whether the Buyer accepts these conditions by a written acknowledgment, by implication, or by acceptance and payment for goods ordered. Seller's failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions of this acceptance. Any changes from the terms and conditions of sale contained herein must be specifically agreed to in writing by an authorized employee of Seller before becoming binding on Seller. All orders or contracts must be approved and accepted by Seller. From time to time, Seller may accept certain of Buyer's terms and conditions of sale by signing Buyer's proposed sale agreement. If such acceptance is preceded or accompanied by Seller's interpretation of Buyer's terms and conditions, such interpretation shall control the construction or interpretation of the meaning of Buyer's terms and conditions.

### 3. PURCHASE AND LICENSE

Buyer, by its acceptance of the attached quotation and issuance of a purchase order to Seller, agrees to purchase and license, and Seller agrees to sell and license, subject to this Contract, the Products, specified in the attached quotation in the quantities and at the prices stated therein. THE INSTRUCTIONS, QUANTITIES, AND PRICES SPECIFIED IN THE ATTACHED QUOTATION, TOGETHER WITH THIS CONTRACT, CONSTITUTE THE SOLE BASIS FOR THE SALE AND LICENSE BY SELLER OF THE PRODUCTS, AND ANY TERMS OR CONDITIONS PROPOSED BY BUYER SHALL BE VOID AND OF NO EFFECT UNLESS SPECIFICALLY AGREED TO IN WRITING BY SELLER. Purchase orders delivered by Buyer to Seller shall not be cancellable unless prompted by Seller

### 4. TERMS OF PAYMENT

a. Unless otherwise indicated by seller, all payments are due and payable net thirty (30) days from the date of the Seller's invoice. Buyer agrees to pay interest on all amounts past due at the rate of 1.5% per month. All payments shall be made to Seller at the

address specified on the front of the applicable invoice the currency on Seller's invoice. If all of the Products covered by the Contract are not delivered or performed at one time, Buyer shall pay for the quantity of Products shipped. Each shipment shall be considered a separate and independent transaction. Payment shall be made for Products without regard to whether Buyer has made or will make any inspection of the goods. All payments shall be non-refundable.

b. All shipments and deliveries covered by the Contract shall at all times be subject to the credit approval of Seller. As a part of this credit approval, Seller may at any time decline to make any shipments or deliveries, perform any work, and/or impose such other terms or conditions or security arrangements as Seller, in its sole discretion, deems appropriate.

c. Risk of damage to or loss of the Products shall pass to Buyer, either (i) in the case of Products to be delivered at Seller's premises, at the time when Seller notifies Buyer that the Products are available for collection, or (ii) in the case of Products to be delivered otherwise than at Seller's premises, at the time of delivery or, if Buyer wrongfully fails to take delivery of the Products, the time when Seller has tendered delivery of the Products.

Notwithstanding delivery and the passing of risk in the Products, or any other provision of the Contract, the property in the Products shall not pass to Buyer until Seller has received in cash or cleared funds payment in full of the price of the Products and all other products agreed to be sold by Seller to Buyer for which payment is then due.

Until such time as the property in the Products passes to Buyer, Buyer shall hold the Products on trust for Seller, and keep the Products separate from those of Buyer and third parties and properly stored, protected, insured and identified as Seller's property, and be entitled to resell or use the Products in the ordinary course of its business (unless Seller revokes such entitlement in writing).

Until such time as the property in the Products passes to Buyer (and provided that the Products have not been resold) Seller shall be entitled at anytime to enter upon any premises where the Products are stored to inspect them, and at any time to require Buyer to deliver up the Products to Seller and, if Buyer fails to do so forthwith, to enter upon any premises of Buyer or any third party where the Products are stored and repossess the Products.

Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the which remain the property of Seller, but if Buyer does so, all monies owing by Buyer to Seller shall (without prejudice to any other right or remedy of Seller) become due and payable immediately.

The provisions set out in this clause shall be without prejudice to the obligation of Buyer to purchase the Products.

### 5. PRICES

The prices for the Products shall be those agreed upon between the parties as set forth on the applicable invoice, provided, however, that if such prices are based on the purchase of a particular quantity of Products and Buyer fails to purchase such quantity of Products, Seller shall have the right (in addition to any other rights and remedies Seller may have) to collect from Buyer the difference between the price paid by Buyer for the Products purchased and a price for such Products commensurate with the quantity actually purchased by Buyer. All prices fees set forth in the attached quotation are for delivery ExWorks Seller's manufacturing partners (California USA), or ExWorks Seller's Witney UK facility (Incoterms 2000), whichever Seller determines

in its sole discretion. All transportation charges shall be paid by the Buyer.

## 6. TAXES AND CUSTOMS DUTIES

Buyer shall pay, in addition to the prices stated on the invoice, the amount of any present or future customs duties, governmental charges or any sales, use, excise, value added, or other similar tax applicable to the sale or use by Buyer of the Products (exclusive of taxes levied on Seller's income), or in lieu thereof, Buyer shall supply Seller with an appropriate tax exemption certificate. Any personal property taxes assessable on the Products after delivery to the carrier shall be borne by the Buyer. If Seller pays any such taxes on Buyer's behalf, Buyer shall reimburse Seller for such payment. If any tax in the nature of withholding tax is payable on any sums payable to Seller under the Contract, Buyer shall pay Seller such amount as is necessary to ensure that the net amount received by Seller after such withholding shall be equal to the amount originally due.

## 7. DELIVERY, TITLE AND RISK OF LOSS.

Delivery shall be ExWorks Seller's manufacturing partners, or ExWorks Seller's Oxfordshire UK facility (Incoterms), whichever Seller determines in its sole discretion (hereinafter, "Seller's Facility"). Regardless of the actual terms for delivery, for the purpose of this Contract, the "Delivery Date" shall be deemed to be the date the carrier takes possession of the Products at Seller's Facility for shipment to Buyer. Title to the Equipment shall pass to Buyer upon shipment from Seller's Facility. Title to Software shall not pass to Buyer at any time but shall remain with Salunda or its licensor. The Products will be packaged in accordance with standard commercial practices for domestic shipment and will be shipped by means deemed most appropriate by Seller unless specific shipping instructions are agreed to in writing by Seller and Buyer. Any date of delivery set forth in a quotation or invoice is an estimate only, and Seller shall not be liable for, nor shall Seller be in breach of its obligations to Buyer because of, any delivery made within a reasonable time of the stated delivery date. Seller may, by written notice to Buyer, change any delivery date, and such date shall become the agreed upon delivery date unless Buyer delivers to Seller its objection to such date in writing. Seller shall consider any delivery date requested by Buyer, however the scheduled delivery date shall be that date specified by Seller. Seller reserves the right to deliver in advance of any estimated delivery date.

## 8. FORCEMAJEURE

Seller shall not be liable for any failure to deliver, or delay in the delivery of, any Products due to any cause beyond its control, including but not limited to acts of God, acts of civil or military authority, fires, epidemics, floods, riots, terrorism, wars, sabotage, labor disputes, yield problems, governmental actions, or inability to obtain materials, components, energy, manufacturing facilities, or transportation. In the event of any such delay, the date of delivery or performance hereunder shall be extended by a reasonable period of time. In the event Seller's production is curtailed for any reason, Seller may allocate its production among its customers at its sole discretion.

## 9. ACCEPTANCE AND WARRANTY

a. The Product delivered to Buyer shall be deemed accepted by Buyer upon shipment from Seller, subject to the warranty provisions set forth in this Section 9. Unless indicated differently by Seller, Seller warrants that the Equipment delivered hereunder shall be free from defects in material and workmanship under normal use and service for a period of thirty (30) days from the Shipment Date. The foregoing warranty shall not apply unless such Equipment is operated in strict accordance with Seller's manuals furnished with the Equipment. Buyer acknowledges that the Equipment cannot be tested in every possible operation, and accordingly Seller does not warrant that the Equipment will be free from all defects or that there will be no interruption in its use. The foregoing warranty does not include a warranty in respect of defects in the Equipment arising from (a) Buyer error, misuse or neglect in its use or storage of the Equipment; (b) any modification of the Equipment made by anyone other than Seller; and/or (c) the use of the Equipment for other than the purpose for which

designed, or in combination with other equipment, software or technology not purchased or licensed from Seller, provided that such defects would not have occurred but for such combination, modification or enhancement.

b. If, during such warranty period, (i) Seller is notified promptly in writing by notice delivered to the address listed on the invoice, Attention: Product Returns, upon discovery of any defect in the Equipment, including a detailed description of such defect; (ii) such Equipment is returned to the facility designated by Seller accompanied by a "Returned Material Authorization Number" as provided to Buyer by Seller upon request; and (iii) Seller's examination of such Equipment discloses to Seller's satisfaction that such Equipment is defective and such defects are not caused by accident, abuse, misuse, neglect, alteration, improper installation, repair, improper testing, or use contrary to any manuals or instructions issued by Seller. Seller shall (at its sole option) either repair or replace such Products or, failing this, will reimburse the purchased price of the Product. Repaired or replaced Equipment will be warranted for the remainder of the original warranty term. No Equipment may be returned to Seller without prior written consent from Seller and a Returned Material Authorization Number as provided to Buyer by Seller.

c. Prior to any return of Equipment by Buyer pursuant to this Section 9, Buyer shall afford Seller the opportunity to inspect such Equipment at Buyer's location, and any such Equipment so inspected shall not be returned to Seller without its written consent.

d. Seller shall return any Equipment repaired or replaced under this warranty to Buyer transportation prepaid, and reimburse Buyer for the transportation charges paid by Buyer for return of such Equipment. The performance of this warranty does not extend the warranty period for any Equipment beyond that period applicable to the Equipment originally delivered.

e. THE FOREGOING WARRANTY CONSTITUTES SELLER'S SOLE AND EXCLUSIVE LIABILITY, AND THE EXCLUSIVE REMEDY OF BUYER, FOR ANY BREACH THEREOF BY SELLER. SELLER MAKES NO WARRANTY AS TO THE SOFTWARE, WHICH IS SUPPLIED "AS-IS", OR AS TO GOODS INCLUDED IN THE PRODUCTS NOT MANUFACTURED OR DEVELOPED BY SELLER. FOR SUCH GOODS NOT MANUFACTURED OR DEVELOPED BY SELLER, SELLER, TO THE EXTENT PERMITTED BY SELLER'S CONTRACT WITH ITS SUPPLIER, SHALL ASSIGN TO BUYER ANY RIGHTS SELLER MAY HAVE UNDER ANY WARRANTY OF THE SUPPLIER. THE FOREGOING WARRANTY IS EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, SELLER AND ITS SUPPLIERS AND LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR ANY CONDITIONS OF QUALITY OR ANY WARRANTIES ARISING BY LAW, STATUTE, USAGE OF TRADE OR COURSE OF DEALING.

## 10. BREACH

Any one of the following acts by Buyer shall constitute a breach of Buyer's obligations under the Contract:

- Buyer fails to make payment for any Products when due;
- Buyer fails to accept conforming Products supplied hereunder;
- the filing of a voluntary or involuntary petition in bankruptcy against Buyer, the institution of any proceeding in insolvency or bankruptcy (including reorganization) against Buyer, or an assignment for the benefit of creditors of Buyer; or
- any other act by Buyer in violation of any of the provisions of such Contract.

In the event that Buyer violates any provision of the Contract, Seller may (in addition to any other rights or remedies provided herein or at law or in equity), by written notice to Buyer, terminate the Contract or any part thereof, without any liability to Buyer. Buyer shall pay all costs, including reasonable attorney's fees,

incurred by Seller in any action brought by Seller to collect payments owed or otherwise to enforce its rights. Upon termination of the Contract, Buyer must immediately return to Seller all Products delivered hereunder, including, without limitation, all copies of the Software in Buyer's possession, erase or destroy the Software contained in any software cartridge, computer memory or data storage apparatus under Buyer's control, and certify in writing to Seller within thirty (30) days of the termination of the Contract, that Buyer has complied with the foregoing. Except for the right to maintain a backup copy of the Software, Sections 1, 2, 3, 4, 5, 6, 7, 8, 9e, 10, 13, 14, 16, 17, 18, 19 and 20 shall survive the termination of the Contract.

#### **11. PRODUCT CHANGES**

Seller reserves the right, at its option, to modify or change the Products in whole or in part, at any time prior to delivery thereof.

#### **12. MAINTENANCE SERVICES**

Maintenance services for the Products may be available pursuant to Seller's standard maintenance agreement at its established prices.

#### **13. CRITICAL APPLICATIONS**

The Products shall not be used in a manner that may invoke potential risks of death, bodily injury or severe property or environmental damage, including, without limitation, use in any application for life-support systems, nuclear facilities, air traffic control systems, weapons systems, or aeronautical and automotive devices (hereinafter, "Critical Applications"). The Products are not designed or warranted to be suitable for use with Critical Applications.

#### **14. LIMITATION OF LIABILITY**

Notwithstanding anything to the contrary contained herein, and to the extent permitted by applicable law, it is expressly agreed that (i) Seller's aggregate maximum liability to Buyer for damages hereunder shall in no event exceed an amount equal to the aggregate payments made by Buyer pursuant to the Contract during the previous (12) twelve months from the date of the claim, and (ii) in no event shall Seller its licensors, suppliers or authorized distributors be liable for any special, indirect, consequential, incidental, punitive, or multiple damages, including, without limitation, loss of profits (whether direct or indirect), loss of revenue (whether direct or indirect) or loss of or corruption to data. The foregoing limitations of liability shall apply regardless of the form of legal action, whether in contract or in tort, including negligence, under which such damages are sought. This limitation shall apply even if Seller, its licensors, suppliers or authorized distributors knows or has been advised of the possibility of such damages and notwithstanding any failure of essential purpose of any limited remedy provided for herein. This limitation is cumulative, with all payments to Buyer for claims or damages being aggregated to determine satisfaction of the limit. The existence of one or more claims will not enlarge the limit.

#### **15. SOFTWARE LICENSE**

Subject to the terms and conditions of the Contract, Salunda hereby grants to Buyer a non-exclusive, non-transferable, limited license to use the Software only for the Permitted Use, and for no other purpose whatsoever. Buyer agrees to use the Software solely for the Permitted Use. Any further licensing of other Salunda products or any right to use the Software other than for the Permitted Use by Buyer shall be the subject of a separate agreement.

#### **16. USE RESTRICTIONS**

Buyer understands and agrees as follows: (i) Buyer may not make or permit others to make any copies of all or any portion of the Software except that Buyer may make copies of the Software for use solely with the Equipment and for archival or backup purposes as permitted by law (such copies are also fully subject to the terms and conditions of the Contract); (ii) Buyer may not reverse engineer, disassemble, decompile, alter, or modify any part of the Products, including, without limitation, the Software, and may not

incorporate, in whole or in part, any other product or create derivative works based on all or any part of the Products, including, without limitation, the Software, or permit others to do so, except to the extent expressly permitted by applicable law but then only to the extent that (a) Salunda is not legally entitled to exclude or limit such rights by contract and (b) Buyer notifies Salunda of its requirements with respect to interoperability or functional compatibility before engaging in any of the enumerated actions, and gives Salunda the opportunity to provide Buyer with the information necessary to achieve such interoperability or compatibility without engaging in any of such actions. Information relating to the Software which is necessary to enable the production of other software which is interoperable or compatible with the Software or other software may be available from Salunda upon written request; (iii) Buyer may not remove any patent, copyright, trademark, proprietary rights, disclaimer or warning notice included on or embedded in any part of the Products, including, without limitation, the Software or any copy that Buyer makes of the Software as permitted in the Contract; (iv) Buyer may not sell, license, sublicense, rent, lease, or otherwise transfer the Products or any portion of the Products, including, without limitation, the Software, without the prior written consent of Salunda; (v) Buyer may not use the documentation provided with the Products for any purpose other than to support Buyer's use of the Products; and (vi) Buyer may not separate any component part of the Product or Software for use on more than one computer.

#### **17. OWNERSHIP**

The intellectual property rights to the Products are owned by Salunda, its licensors and/or third parties and protected by a combination of patent, trademark, trade secret, copyright and/or other intellectual property laws and international treaty provisions, as applicable. Buyer agrees that Salunda, licensors and/or third parties retain all right, title, and interest in and to the Products including, without limitation, any applicable patents, trademarks, trade names, inventions, copyrights, know-how, and trade secrets relating to the Products. With respect to any source code provided by Salunda to Buyer hereunder, such source code shall constitute a valuable trade secret of Salunda. The use by Buyer of any of Salunda's property rights is authorized only for the purposes herein set forth, and upon termination of the Contract for any reason such authorization shall cease. The Products may include technology owned by parties other than Salunda. The Software is licensed, not sold.

#### **18. CONFIDENTIALITY**

As used in the Contract, "Confidential Information" means: (i) the Software or Product and all parts thereof in any form, and any related technology, idea, algorithm or information contained in the Software or Product; and (ii) any information disclosed by Seller to Buyer relating to the Products designated as confidential at the time of disclosure or which would be considered confidential by a reasonable person. Notwithstanding the foregoing, "Confidential Information" shall not include information that: (a) is known and has been reduced to tangible form by Buyer prior to the time of disclosure for the first time under the Contract; or (b) is independently developed by Buyer without the use of any of the Confidential Information. Buyer shall have the burden to prove by clear and convincing evidence that the foregoing exceptions apply. Buyer will not use the Confidential Information for any purpose other than the Permitted Use. Buyer will use commercially reasonable efforts to protect the Confidential Information from unauthorized disclosure. Buyer may disclose the Confidential Information only to employees of Buyer who have a need to know such Confidential Information in furtherance of the Permitted Use and who have entered into agreements with Buyer containing confidentiality provisions at least as restrictive as those set forth in this Section with respect to the Confidential Information. Buyer will not disclose any of the Confidential Information to any third party without the clear and express written consent of Seller. Buyer shall immediately notify Seller in writing at the address on the applicable invoice (Attn: CEO) of any unauthorized use or disclosure of any of the Software or part thereof or any Confidential Information. Any data supplied by Buyer to Seller shall be held and/or transferred in

strict accordance with the applicable data protection laws and Seller's data protection registration. Buyer hereby consents to its personal data being transferred to a Seller company outside of the EEA. Buyer may instruct Seller in writing not to use its data for direct marketing purposes.

#### **19. INDEMNITY**

Buyer, at its own expense, shall defend and indemnify Seller, and hold Seller, its subsidiaries, agents and employees, harmless from and against damages, liabilities, costs and expenses arising or incurred by Seller as a result of any claims by third parties that: (A) arise from the use, modification, or combination of the Products with any Buyer product or third party product or any marking or branding applied to the Products infringes any (i) United States patent, (ii) trademark, (iii) Berne Convention signatory country copyright, or (iv) trade secret; (B) arise from a use of Products by or on behalf of Buyer that is not expressly permitted hereunder.

#### **20. GENERAL**

a. Buyer agrees that all of its obligations contained herein and any action taken by it pursuant to the Contract shall be performed in accordance with all applicable federal, state, local and foreign laws, statutes, rules, regulations and ordinances, including all export restrictions.

b. No U.S. government procurement requirements or regulations shall be binding upon Seller unless specifically agreed to by Seller in writing.

c. The Contract shall be governed by and construed in accordance with English Law and each party irrevocably agrees to submit to the exclusive jurisdiction of the English Courts over any claim or matter arising under or in connection with this Agreement. Any application of the UN Convention of Contracts of the International Sale of Goods is hereby excluded. Buyer hereby waives any law which might provide for an alternative law or forum. Notwithstanding any other provision of these terms and conditions, a breach hereof by Buyer may cause Seller irreparable damage for which recovery of money damages would be inadequate, and that Seller shall therefore be entitled, in addition to any other remedies available to it at law or in equity, to obtain injunctive relief to protect such Seller's rights hereunder. Buyer agrees that all of its obligations contained in this Contract and any action taken by it pursuant to this Contract shall be performed in accordance with all applicable federal, state, local laws of the United States, and United Kingdom and foreign laws, statutes, rules, regulations and ordinances, including all export restrictions.

d. Buyer may not assign this Contract or any of its rights, duties or obligations hereunder without the express written consent of Seller, and any attempted assignment without such consent shall be void.

e. Any waiver of any term or condition of the Contract shall only be deemed to have been made if expressed in writing by the party granting such waiver. The failure or neglect by either party to enforce, in any one or more instances, any of the terms and conditions of the Contract shall not be construed as a waiver of the future performance of any such term or condition, or any other terms or conditions of the Contract. The Contract, which includes the applicable quotation (but expressly does not include any of the terms and conditions of Buyer's purchase order/contract or any similar document issued by Buyer) shall constitute the entire agreement between Buyer and Seller with regard to the Products listed on the applicable invoice, and expressly supersedes and replaces any prior or contemporaneous agreements, written or oral, relating to such Products. Except as otherwise provided herein, any modification or amendment to the Contract must be in writing signed by and on behalf of both parties.

f. Buyer acknowledges that all or part of the Products may be manufactured, assembled or otherwise worked on by Seller's or its subcontractors' facilities, domestic and foreign.

g. Buyer shall execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such instruments and take such other action as may be necessary or advisable to carry out its obligations hereunder and to implement the Contract.

h. In the event that a particular provision of the Contract is held by a court of competent jurisdiction to be invalid, such provision shall be severed from the Contract and shall not affect the validity hereof as a whole or any of its other provisions. The parties hereto agree to replace such invalid provision with a new provision that has the most nearly similar permissible, economic, or other effect.

i. The Contract is for the sole and exclusive benefit of the parties and shall not create a contractual relationship with, or cause of action in favour of, any third party.

j. The section headings contained herein are for reference purposes only and shall not affect in any way the meaning or interpretation of the Contract. The English language shall govern the meaning and interpretation of these terms and conditions.

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