



TERMS OF SALE

These standard Terms of Sale (these "Terms of Sale") govern the sale of goods and/or materials and/or the provision of any services ("Goods and/or Services") by Agilext, Inc., or one of its divisions, subsidiaries, or affiliated entities ("Seller") to the person or business entity buying such Goods and/or Services ("Buyer"). These Terms of Sale are incorporated into each and every purchase order received from Buyer which may establish in addition to these Terms of Sale essential commercial terms not in conflict with these Terms of Sale. In the event of any conflicting provisions in any purchase order or any other document received from Buyer, these Terms of Sale shall control and Seller shall proceed with the sale pursuant to the understanding that these Terms of Sale are the sole Terms of Sale binding on the parties. Buyer and Seller expressly agree that Seller may modify these Terms of Sale from time to time without notice, and such modifications shall be binding upon Buyer. Accordingly, each request for quote, order, acceptance of Goods and/or Services and/or payment to Seller by Buyer shall be deemed an acknowledgment and acceptance by Buyer of these Terms of Sale as then in effect.

1. NO MODIFICATIONS/ ENTIRE AGREEMENT.

Seller's extension of credit to Buyer, if any, acceptance of any purchase order and/or sale or provision of any Goods and/or Services to Buyer are all expressly conditioned upon Buyer's acceptance of these Terms of Sale as then in effect. SELLER HEREBY REJECTS ANY TERMS OR CONDITIONS WHICH ATTEMPT TO ALTER, MODIFY OR CHANGE IN ANY WAY ANY PROVISION HEREOF, OR OTHERWISE ATTEMPT TO SUSPEND, CONTRADICT OR ADD TO ANY TERM OR CONDITION CONTAINED HEREIN, AND BUYER HEREBY WAIVES ALL SUCH TERMS OR CONDITIONS; THUS, SUCH SHALL NOT BE BINDING ON SELLER UNLESS EXPRESSLY AGREED TO IN A SEPARATE WRITTEN INSTRUMENT SIGNED BY SELLER'S AUTHORIZED REPRESENTATIVE. SELLER OBJECTS TO ANY DIFFERENT, INCONSISTENT, CONFLICTING, SUPPLEMENTAL OR ADDITIONAL TERMS OR CONDITIONS AND HEREBY REJECTS SUCH, WHETHER CONTAINED IN PREVIOUS OR SUBSEQUENT PROPOSALS OR COMMUNICATIONS (WHETHER ORAL OR WRITTEN) FROM OR WITH BUYER OR IMPLIED BY TRADE, CUSTOM, PRACTICE, COURSE OF DEALING OR USAGE IN THE

TRADE. BUYER AND SELLER AGREE THAT THESE TERMS OF SALE, AS MAY BE SUBSEQUENTLY MODIFIED BY SELLER FROM TIME TO TIME, ARE ACCEPTED IN GOOD FAITH BY BOTH PARTIES AS THE COMPLETE AND FINAL EXPRESSION OF THE TERMS OF SALE GOVERNING TRANSACTIONS BETWEEN THEM, AND FURTHER AGREE THAT THERE SHALL BE NO "BATTLE OF THE FORMS" AS DESCRIBED IN SECTION 2-207 OF THE UNIFORM COMMERCIAL CODE.

2. ORDERS.

Buyer may not cancel or modify an order in whole or in part without Seller's prior written consent, to be given or denied in Seller's sole and absolute discretion, and which Seller may condition upon an adjustment of price and/or other terms and Buyer's reimbursement to Seller of its costs and damages in connection with the order and its cancellation.

3. PRICE.

The purchase price of any Goods and/or Services sold and/or provided shall be as stated on the applicable Seller order acknowledgment or accepted purchase order; provided, however, that Seller may upon prior notice to Buyer assess a surcharge on the sale of any Goods and/or Services and/or without prior notice choose to pass along any price increase in Seller's cost of the subject Goods and/or Services or surcharge imposed on Seller by its supplier(s), including, but not limited to, any such surcharge predicated upon an increase in the cost of raw materials or energy, delivery costs, all after the date of the applicable Seller order acknowledgment or accepted purchase order.

4. DELIVERY AND PERFORMANCE.

Unless specifically agreed to by Seller in a separate signed writing, Seller does not guarantee any certain date of delivery and Seller shall not be liable to Buyer for any losses, costs, damages, charges or expenses incurred by Buyer or any other person or entity arising directly or indirectly out of a failure to deliver on any particular date, nor will any delay entitle Buyer to terminate or rescind its purchase. Seller reserves the right to defer delivery, to cancel the order or reduce the volume of Goods and/or Services delivered, all without liability of any kind whatsoever to Buyer, if Seller is prevented from or delayed in the carrying on of its business due to a force majeure event. Buyer's right, under the Uniform Commercial Code (the "UCC"), to reject due to delay in delivery is waived unless notice thereof is presented to Seller in writing within five (5) days after delivery.

5. WARRANTY; DISCLAIMER.

All sales of products of Seller or one of its divisions or subsidiaries (each "Seller") shall be made solely and exclusively pursuant to Seller's standard Terms of Sale. Seller's acceptance of any purchase order is hereby expressly made conditional on the Buyer's assent to all of Seller's standard Terms of Sale, including without limitation terms and conditions that are additional to or at variance with the terms and conditions of the Buyer's purchase order.

Seller warrants only that products manufactured by Seller, when shipped, are free from defects (within normal industry allowances) of material and workmanship when properly installed and used for the intended purpose and operated under normal service conditions for a period for one (1) year after the date of tender and delivery; provided, Buyer gives Seller written notice of any such defect within the warranty period. Claims not made within such one-year period shall be barred. Defective and nonconforming Products must be held for Seller's inspection and return to Seller upon request. Normal wear and deterioration are excluded. Seller does not warrant Products which have been subject to misuse, negligence, carelessness, accident, overloading, improper maintenance, service adjustments, improper actions by someone other than Seller, alterations, modifications or replacements. This warranty does not apply to normal maintenance, service adjustments or replacements. Products that are repaired or replaced during the warranty period will be covered by warranty for the remainder of the original warranty period or 90 days, whichever is longer. Notwithstanding the foregoing, goods and parts not manufactured by Seller and work not performed by Seller are warranted only to the extent (and in the manner) that they are warranted to Seller by the original Seller or Seller's vendors, and only to the extent that such warranties can be passed to Buyer. THE WARRANTIES STATED HEREIN ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTIES WHETHER ORAL, WRITTEN, IMPLIED, EXPRESSED, STATUTORY, OR ARISING BY LAW OR CUSTOM, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO PRODUCTS MADE PURSUANT TO BUYER'S SPECIFICATIONS, WHETHER THE PRODUCTS ARE USED ALONE OR IN COMBINATION WITH OTHER SUBSTANCES OR DEVICES.

Buyer's sole and exclusive remedy against Seller for any breach of warranty shall be, at Seller's option, either (i) the repair or replacement of defective Products Seller without charge by Seller or (ii) a refund of an equitable portion of the original purchase price of defective Products. The Products must be returned to Seller's factory, transportation

charges prepaid and accompanied by a claim in writing. SELLER'S LIABILITY SHALL NOT EXCEED THE NET PURCHASE PRICE PAID BY BUYER FOR THE PRODUCTS GIVING RISE TO THE CLAIM OR CAUSE OF ACTION, AND UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR DAMAGES RELATING TO SUPPLY, PAY FOR LABOR DOWNTIME OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES. THESE LIABILITY LIMITATIONS AND EXCLUSIONS SHALL APPLY REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION, WHETHER IN CONTRACT, WARRANTY, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, ANOTHER TORT, EQUITABLE ACTION OR OTHERWISE. THE PRICE STATED FOR THE PRODUCTS IS A CONSIDERATION IN LIMITING SELLER'S LIABILITY.

6. RETURNS.

Returns for any Goods and/or Services require a Return Goods Authorization (RGA) form and number. A copy of our RGA document must accompany your returned item(s), and the RGA number must be referenced in any shipping documents. Any goods being returned to BSC are required to be returned within 60 days of the RGA Creation Date unless otherwise agreed upon by BSC in advance. No credits will be issued for any goods not returned within 60 days. Splice kits or any uncured rubber products are not eligible for return or credit.

7. INDEMNITY.

To the fullest extent permitted by law, Buyer shall, at Buyer's sole cost and expense, indemnify, defend, release and hold harmless Seller, its officers, directors, agents and employees, from and against any and all claims, demands, lawsuits or proceedings of any kind brought or threatened against Seller and/or its officers, directors, agents and employees based on any claim, in whole or in part, that the Goods and/or Services as fabricated or manufactured by Seller in accordance with drawings, specifications or other information provided by Buyer fail to (i) be adequate for a particular purpose, (ii) comply with any product liability law, rule or regulation pertaining thereto, (iii) be adequate for any use to which the Goods and/or Services are put after shipment by Seller to Buyer and/or, (iv) comport with all patent, copyright and/or trademark rights of any third party. Buyer shall pay all costs, expenses, damages, liabilities and losses incurred by Seller, its officers, directors, agents and/or employees, as a result of any such actual or threatened claim, demand, lawsuit or proceeding, including, but not limited to, reasonable attorney's fees.

8. TITLE.

Notwithstanding delivery and passing of risk, Goods and/or Services sold by Seller to Buyer shall remain the property of Seller until Buyer has paid to Seller the agreed purchase price therefor (together with any accrued interest). Until title to the Goods and/or Services passes to Buyer in accordance with this Section 7, Buyer shall: (i) hold the Goods and/or Services on a fiduciary basis and shall not part with possession otherwise than in the ordinary course of business; (ii) take proper care of the Goods and/or Services; (iii) take all reasonable steps to prevent damage to or deterioration of the Goods and/or Services; and (iv) keep the Goods and/or Services free from any charge, lien or other encumbrance. From delivery until title to the Goods and/or Services passes to Buyer, Buyer shall insure the Goods and/or Services for their full value with a reputable insurer, and on request, Buyer shall produce the policy or policies of insurance to Seller. Further, until title to the Goods and/or Services passes to Buyer, Buyer shall hold the proceeds of any claim under any such insurance policy or policies in trust for Seller and shall immediately account to Seller with the proceeds.

9. PURCHASE MONEY SECURITY INTEREST ("PMSI").

In accordance with the UCC, Buyer hereby grants, and Seller hereby retains, a PMSI in all Goods and/or Services sold by Seller to Buyer, along with any products into which such Goods and/or Services are converted or included by Buyer and the proceeds of sale or other transfer by Buyer of any and all said products or of the Goods and/or Services themselves, until such time as Seller is fully paid all amounts owing by Buyer for such Goods and/or Services, at which time said PMSI shall be immediately released. In the event Seller is not timely paid for any Goods and/or Services, in addition to any other rights to which Seller may be entitled hereunder or at law or equity, Seller shall have all rights granted under the UCC in regard to enforcement of its PMSI. Seller reserves the right to, and Buyer acknowledges and agrees that Seller may, notify any of Buyer's secured creditors of Seller's PMSI. Buyer also authorizes Seller to file with appropriate authorities financing statement(s) and/or other documents deemed necessary by Seller to give notice of Seller's PMSI. Buyer shall take all reasonable steps and cooperate with Seller in perfecting Seller's PMSI.

10. TERMINATION.

If, at any time, (i) Buyer fails to pay to Seller any amount in full when due, or otherwise fails to perform any other obligation owed to Seller; (ii) Buyer becomes insolvent or makes an assignment for the benefit of creditors or is adjudged bankrupt or a receiver or trustee of Buyer's property is appointed; or (iii) a levy, execution or attachment is made of

any material portion of Buyer's property, Seller may, in its sole and absolute discretion, terminate the contract, if any, with Buyer for the purchase and sale of Goods and/or Services as created hereby and refuse to make further deliveries and/or repossess any Goods and/or Services for which Seller has not been paid in full (in cash or cleared funds) or continue to perform but refuse to make any shipments except upon the receipt of payment in full (in cash or cleared funds) prior to shipment. All amounts payable to Seller are due immediately upon termination pursuant to this Section 9 despite any other provision to the contrary herein.

11. CONTROLLING LAW.

These Terms of Sale and the contract by and between Buyer and Seller for the purchase and sale of Goods and/or Services created hereunder is deemed made in Maine and shall be governed as to validity, interpretation, construction, effect, and in all other respects, by the laws of the State of Maine, without giving effect to the conflict of laws principles thereof. Venue in any legal action brought by either Buyer or Seller in connection herewith shall be deemed proper in any state or county with a nexus to the Buyer, Seller or the Goods and/or Services and shall be at the choosing of Seller, in its sole and absolute discretion. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms of Sale or the sale of goods or services from Seller to Buyer.

12. WAIVER.

Neither any failure nor any delay on the part of Seller in exercising any rights hereunder shall operate as a waiver of any of Seller's rights. Any waiver by Seller of any breach of, or any default under, any provision of these Terms of Sale by Buyer will not be deemed a waiver of any subsequent breach or default. All rights and remedies granted herein are in addition to all remedies available at law or in equity.

13. ASSIGNMENT.

Buyer may not assign its rights or obligations hereunder (whether voluntarily, involuntarily, by operation of law, transfer of majority or controlling interest or otherwise) without the prior written consent of Seller. These Terms of Sale shall be binding upon Buyer and its successors and permitted assigns.

14. SEVERABILITY.

If any provision of these Terms of Sale shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Sale, and the remaining Sections shall continue in full force and effect.

15. EXCLUSIVE AGREEMENT.

The contract by and between Buyer and Seller for the purchase and sale of Goods and/or Services created hereby constitutes the entire agreement by and between Buyer and Seller with regard to the subject matter hereof and shall exclusively determine the rights and obligations of Buyer and Seller with regard to the purchase and sale of Goods and/or Services, any prior course of dealing, custom or usage of trade or course of performance notwithstanding, and may not be modified by Buyer except in separate writing signed by an authorized agent of Seller.