

HUSA TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale (“Terms”) govern the sale of Products by Hioki USA Corporation (“HUSA”). “Product” shall mean all the products, accessories and parts thereof which are offered for sale by HUSA to BUYER, or products manufactured in conformity with specifications approved by BUYER, excluding ATE products, and which are manufactured and sold by HUSA under the trademark HIOKI. “Service” means any standard support service to support Products, or Software updates and maintenance. “Professional Services” means consulting services or training. “Specifications” means technical information about Products published by HUSA and in effect on the date HUSA ships the order. The HUSA quote or similar order form (“Quote”), these Terms, any Statement of Work or description of deliverables (“SOW”) from HUSA for any Service or Professional Services, any and all HUSA end user license agreements accompanying Products or Software, and HUSA’s warranty are collectively referred to herein as the “Terms.”

1. SALE AND DELIVERY

- a) All orders are subject to acceptance by HUSA. HUSA’s acceptance of BUYER’s order is expressly limited to, and conditioned on, these Terms. HUSA objects to and rejects any terms or conditions in any communication or purchase order from BUYER that are in addition to or different from those contained in these Terms. The fulfillment of BUYER’s order and the invoicing of BUYER will not constitute acceptance of any of HUSA’s terms and conditions or serve to modify these Terms. Orders are governed by the applicable trade term specified on the Quote or agreed to by HUSA as defined in Incoterms 2010.
- b) Prices exclude any applicable sales, value added or similar tax payable by BUYER.
- c) Unless otherwise indicated on the Quote, prices does not include shipping and handling charges. Title to hardware Products will pass to BUYER upon delivery.
- d) Orders may not be canceled without HUSA’s written approval and are subject to cancellation fee determined by HUSA. All delivery dates are approximate and not guaranteed, and HUSA will have no liability for late delivery. HUSA reserves the right to make partial shipments.
- e) For Products without installation included in the purchase price, acceptance occurs upon delivery. Delivery terms are Ex Works Dallas unless otherwise stated.
- f) Payment terms are stated in the Quote or acknowledgment documentation, and are subject to change if BUYER’s financial condition or payment record merits such change.

- g) BUYER will be liable for all expenses, including legal fees, relating to the collection of past due amounts and/or HUSA's enforcement of these Terms. If any payment owed to HUSA is not paid when due, it will bear interest from the due date until paid at a rate of one percent (1%) per month (or the maximum rate permitted by applicable law, if less).
- h) BUYER agrees that, except as otherwise expressly stated in an SOW, BUYER will reimburse HUSA for all reasonable out-of-pocket travel, lodging, and other related expenses incurred by HUSA in connection with any Professional Services.

2. LICENSES

- a) If the Software documentation does not include license terms, HUSA grants BUYER a worldwide, non-exclusive, non-transferable, revocable (if any applicable royalties are not paid), limited license to use one copy of the Software on one machine or instrument for internal purposes or, if applicable, HUSA grants BUYER the license as otherwise stated on the Quote. Software may contain third party software with separate license terms that may apply and take precedence to the extent BUYER's use exceeds the license granted herein.
- b) When Software is delivered electronically, such delivery will be deemed to have occurred when (i) HUSA has notified BUYER of, and has given BUYER access to, a website from where the Software can be downloaded, and (ii) HUSA has given BUYER any and all license key(s) needed to download, install, and/or activate the Software. When Software is installed by HUSA, delivery and acceptance will be in accordance with Section 1(e).
- c) Except as authorized by HUSA in writing or as permitted by law, BUYER will not reverse engineer, reverse compile, or reverse assemble Software, modify or translate Software, or copy Software onto any public or distributed network.
- d) Notwithstanding anything to the contrary in these Terms, all Software, Service and Professional Services deliverables are licensed and not sold, and the use of terms such as "sale" and "purchase" in connection with those items will be understood as a reference to licensing of those items.
- e) For Test Scripts and for all Service and Professional Services deliverables that do not constitute Software, HUSA grants to BUYER a limited, non-exclusive, non-transferable, perpetual, worldwide license to copy and use such items only for BUYER's internal business purposes.
- f) As between HUSA and BUYER, HUSA is and shall remain the exclusive owner of all intellectual property rights in or related to any of the Products, Service and Professional Services.

3. WARRANTY

- a) Product warranty terms are provided with the Product.
- b) HUSA warrants the HUSA hardware Product against defects in materials and workmanship and that the Product will conform to Specifications.
- c) If HUSA receives notice of a defect or non-conformance during the warranty period, HUSA will, at its option, repair or replace the affected Product. Malfunctions and damage not covered under warranty are as follows: 1. Malfunction or damage of test leads, probes, carrying cases, cables, cords, batteries, which can be removed from the main unit, and damage of instruction manuals. 2. Malfunction or damage that result from repair or alteration by a third party. 3. Malfunction or damage caused by improper use, like the overload input, of a user. 4. Breakdown or damage caused during transportation after the product has left the place of manufacture. 5. Changes in the external appearance of the product due to natural wear-and-tear or build-up of dust and other matter. 6. Malfunction or damage caused by natural disasters, such as fires and earthquakes, or man-made disasters. 7. Any other malfunction or damage caused by events that fall outside of HIOKI's control.

BUYER will pay shipping expenses for return of such Product to HUSA. HUSA will pay expenses for shipment of the repaired or replacement Product. Unless otherwise agreed by the parties in writing, BUYER shall be solely responsible for customs documentation to be properly prepared and customs procedures to be completely fulfilled in accordance with the applicable legislation before proceeding with Product returns to the extent they are allowed and specified in these Terms.

- d) THE WARRANTIES IN THESE TERMS ARE EXCLUSIVE, AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. HUSA SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

4. INTELLECTUAL PROPERTY CLAIMS

- a) HUSA will defend or settle any claim against BUYER that a Product infringes an intellectual property right, provided BUYER promptly notifies HUSA in writing and provides control of the defense or settlement, and assistance, to HUSA.
- b) In defending or settling an infringement claim under Section 4(a), HUSA will pay infringement claim defense costs, settlement amounts and court-awarded damages. If such a claim appears likely, HUSA may, at its option, modify or replace the Product or procure any necessary license. If HUSA determines that none of these alternatives is reasonably

available, HUSA will refund BUYER's purchase price upon return of the Product.

- c) HUSA has no obligation for any claim of infringement arising from: HUSA's compliance with, or use of, BUYER's designs, specifications, instructions or technical information; Product modifications by BUYER or a third party; Product use prohibited by or outside the scope of Specifications or related application notes; or use of the Product with products not supplied by HUSA.

5. LIMITATION OF LIABILITY AND REMEDIES

- a) In no event will HUSA, its subcontractors or suppliers be liable for special, incidental, indirect or consequential damages (including downtime costs, loss of data, restoration costs, or lost profits) regardless of whether such claims are based on contract, tort, warranty or any other legal theory, even if advised of the possibility of such damages. Without limiting the foregoing, to the maximum extent permitted by applicable law, HUSA's maximum aggregate liability in connection with BUYER's purchase of HIOKI branded Products, Service or Professional Services-will not exceed the greater of (i) the amount paid by BUYER for the order and (ii) \$10,000. This exclusion shall apply even if any remedy set forth in these Terms fails its essential purpose.
- b) The limitations set forth in Section 5(a) above will not apply to infringement claims under Section 4, or to damages for bodily injury or death.
- c) The remedies in these Terms are BUYER's sole and exclusive remedies.

6. INDEMNIFICATION

HUSA will indemnify and hold BUYER harmless from and against any third party claims for (i) bodily injury or death, or (ii) direct damage to tangible property, to the extent caused by HUSA's negligence or willful misconduct in performing its obligations under these Terms, provided HUSA is given prompt written notice and the opportunity to control the defense of the claim or settlement, and subject to the limitation of liabilities set forth in Section 5.

7. GENERAL

- a) HUSA will store and use BUYER's personal data in accordance with HUSA's Privacy Statement, available at <https://hiokiusa.com/privacy-policy/>. HUSA will not sell, rent or lease BUYER's personal data to others.
- b) The parties agree to comply with applicable laws and regulations. HUSA may suspend performance if BUYER is in violation of applicable laws or regulations.

- c) BUYER expressly agrees that it assumes full responsibility for obtaining any and all required export authorizations from all applicable government authorities prior to exporting, re-exporting or transferring Products, technology or technical data and for complying with all applicable laws and regulations relating to any such transfer or transaction. BUYER shall not sell or transfer Products, technology or technical data to any entity designated or identified by the U.S. Government as a restricted person or included on any U.S. Government-maintained restricted person list, including, but not limited to, (i) the Specially Designated Nationals and Blocked Persons List, (ii) the Foreign Sanctions Evaders List, (iii) the Sectoral Sanctions Identification List, (iv) the Entity List, (v) the Denied Persons List, and (vi) the Unverified List (collectively, "US Restricted Lists"). Further information on these and other applicable lists can be found at www.treasury.gov or www.bis.doc.gov. HUSA may, in its sole discretion, suspend performance or cancel all or part of the order if BUYER is designated on US Restricted Lists or does not comply with the provisions of this section and may, in its sole discretion, refuse to perform any post-sale services with respect to the Product (including, but not limited to, any repair or replacement under warranty) if such activities would involve in any way, an entity on any US Restricted Lists. HUSA may, in its sole discretion, require BUYER to provide an end user certificate and/or an export license prior to HUSA's delivery of any Product or item to BUYER.
- d) A party is excused from and not liable for performance of its obligations under these Terms for any occurrence beyond its reasonable control and without its fault or negligence including, but not limited to, acts of God (such as fires, floods, storms, earthquakes, hurricanes or other natural disasters), acts of the public enemy (such as civil war, rebellion, revolution or terrorist activities), regulations, acts or restraints of a government in either its sovereign or contractual capacity, epidemics, quarantine restrictions, strikes, lockouts, interruption or failure of utilities, or acts or omissions of common carriers.
- e) Use, distribution or disclosure of Products by the U.S Government is subject to DFARS 227.7202-3 (Rights in Commercial Computer Software), DFARS 252.227-7015 (Technical Data – Commercial Items), and FAR 52.227-19 (Commercial Computer Software- Restricted Rights).
- f) Disputes arising in connection with these Terms will be governed by the laws of the State of Texas.
- g) To the extent that any provision or a portion of any provision of these Terms is determined to be illegal or unenforceable, the remainder of these Terms will remain in full force and effect.
- h) The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms.
- i) Products are intended for professional and industrial use only, and are not suitable for consumer or household use, and BUYER represents and warrants that it is not acquiring Products for such uses. Consumer or household use, or use

outside of the Specification for the Product, will nullify Sections 2(a), (b) and (e), 4(a) and (b), 5(b) and 6 of these Terms and void the warranty terms set out, or incorporated in, Section 3. Products are not specifically designed, manufactured or intended for sale as parts, components or assemblies for the planning, construction, maintenance or direct operation of a nuclear facility. HUSA shall not be liable for any damages resulting from such use.

- j) These Terms and any supplemental terms applicable to the order constitute the entire agreement between HUSA and BUYER, and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder.
- k) HUSA may assign or transfer any of its rights or obligations under these Terms upon notice in connection with a merger, reorganization, transfer, sale of assets or product lines, demerger or spin-off transaction or change of control or ownership of HUSA, or its permitted successive assignees or transferees. BUYER may not transfer or assign these Terms without HUSA's prior written consent.
- l) All information provided by HUSA in connection with any roadmap presentation is for informational purposes only, is not binding upon HUSA, and does not constitute part of these Terms; such information reflects HUSA's present plans and is subject to change by HUSA at any time and without notice.

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