

CYBER SCIENCES INC. TERMS AND CONDITIONS

1. **Exclusive Agreement.** These terms and conditions (“Terms of Sale” and/or “Agreement”) supersede all prior proposals, negotiations, representations, agreements and understandings between Cyber Sciences, Inc. or any of its affiliates (“Supplier” and/or “Licensor”) and the purchaser (“Buyer” and/or “Licensee”) of Supplier’s products (“Products”), including those contained in any confidentiality agreements, and all terms and conditions contained in any Buyer-provided purchase orders, and constitutes the complete and exclusive agreement between Buyer and Supplier regarding the subject matter hereof, and the Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in this Agreement. By its receipt and use of Supplier’s Products, Buyer agrees and acknowledges (i) that it has received and reviewed the Terms of Sale, (ii) that the Terms of Sale supersede all prior proposals, negotiations, representations, agreements and understandings between the parties including those contained in any confidentiality agreements and all terms and conditions contained in any Buyer-provided purchase orders, (iii) its receipt and use of the products described in this Order will constitute Buyer’s irrevocable acceptance of the Terms of Sale, with the intent to create a binding agreement between Supplier and Buyer with the same legal effect, validity and enforceability of a handwritten signature and paper document, and (iv) this Order Confirmation and the Terms of Sale, constitute the complete and exclusive agreement between Buyer and Supplier regarding the Transaction and any and all transactions between Supplier and Buyer. Any reference to a purchase order or similar documentation on an invoice or other acceptance thereof is solely for Buyer’s convenience in record keeping, and no such reference or the provision of services or products to Buyer shall be deemed an acknowledgement of or agreement to any terms or conditions associated with any such purchase order or other Buyer-provided documentation. Any such associated terms and conditions shall be of no force and effect, and shall not in any way be deemed to amend, modify, supersede, alter or supplement this Agreement.
2. **License.**
 - a. Licensee wishes to obtain, and has offered to purchase, Product(s) and rights to use software (“Software”) to operate those Products. Licensor’s acceptance of that offer is expressly made conditional on Licensee’s acceptance of the terms set forth herein.
 - b. For each Product purchased by Licensee, Licensor grants Licensee a non-exclusive, perpetual license to use the Software for the purpose of operating that Product. In connection with a transfer of a Product, Licensee may transfer the license granted to use the Software to operate that Product to the acquiror of that Product.
 - c. Licensee acknowledges that the Software is licensed, not sold, and that Licensee does not acquire any right, title or interest in or to the Software or any license to the Software or any intellectual property other than the limited license set forth in the preceding paragraph. Licensor and its licensors are the sole and exclusive owners of all right, title and interest in and to the Software, including all

intellectual property rights relating thereto, subject only to the limited license granted to Licensee in the preceding paragraph.

3. Restrictions

- a. Except as necessary for it to exercise the rights granted herein, Licensee shall not, and shall not permit any person or entity to:
 - i. copy the Software, in whole or in part;
 - ii. modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of the Software;
 - iii. reverse engineer, disassemble, decompile, decode, or adapt the Software;
 - iv. attempt to derive or gain access to the source code of the Software;
 - v. bypass or breach any security device or protection used for or contained in the Software or any Product;
 - vi. use the Software for purposes of (i) benchmarking or competitive analysis; (ii) developing, using or providing a competing product or service; or (iii) any other purpose that is to Licensor's detriment or commercial disadvantage; or
 - vii. use the Software other than as expressly permitted herein.
- b. In the event Licensee learns or has reason to believe that any of the acts prohibited by the preceding paragraph has taken place, Licensee shall so inform Licensor, and shall assist Licensor as it reasonably requests to respond to and/or mitigate the impact of such prohibited act.

4. Currency. All prices are in US Dollars (USD).

5. Shipping terms. FOB Factory (Incoterms: Ex Works Origin). Prices do not include taxes or customs duties (if applicable) or shipping costs; actual shipping charges will be added to the invoice when known, or shipping costs can be charged to Buyer shipping account on request. Unless directed otherwise by Buyer, standard ground shipping (US domestic) or standard worldwide shipping (international orders) will be used.

6. Availability. Actual lead time is confirmed after receipt of order based on ship to location and current availability.

7. Payment Terms: Payment by credit card or Net 30 terms with approved credit. Without credit approval, payment in full is requested prior to shipment.

8. Wire fees. Cyber Sciences, Inc. is not responsible for any wire fees charged by the initiating bank or institution.

9. Warranty. Cyber Sciences standard warranty period is 1 year (12 months) from date of purchase. [[View warranty policy \(pdf\)](#)]

10. Country of origin. Cyber Sciences products are made in the USA.

11. Non-Solicitation: Buyer agrees to not directly or indirectly solicit, hire or retain any employee or independent contractor of Supplier or to assist any other business organization from doing likewise.
12. Equitable Relief. Buyer and Supplier agree that (i) the Supplier will suffer irreparable injury if Buyer breaches this Agreement, (ii) that there will be no adequate remedy at law as such breach would result in immediate and irreparable harm to the Supplier in an amount difficult to ascertain and (iii) that the Supplier shall be entitled to obtain injunctive relief against a threatened breach or continuation of any such breach and, in the event of such breach, an award of actual and exemplary damages from any court of competent jurisdiction. The Buyer shall not assert any claim or defense that the Supplier is not being irreparably harmed, or that money damages are a sufficient remedy, or that a bond or other security shall be required. In the event of litigation arising out of this agreement, if a court of competent jurisdiction issues a final, non-appealable judgment for the prevailing party, such prevailing party shall be entitled to an award of its costs and expenses of litigation (including reasonable attorneys' fees and expenses in obtaining such judgment). Remedies for the breach of this Agreement shall be cumulative and the pursuit of one remedy shall not be deemed to exclude any other remedies. The provisions of this Section 12 shall survive the termination of this Agreement or any subsequent agreement.
13. Disclaimer.
 - a. All prices and terms of sale are subject to change without notice.
 - b. ALL PRODUCTS INCLUDING, WITHOUT LIMITATION, SOFTWARE IS PROVIDED "AS IS". LICENSOR SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, LICENSOR MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET LICENSEE'S OR OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE.
 - c. IN NO EVENT WILL LICENSOR, OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THE PRODUCTS AND/OR THE SOFTWARE UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (A) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (B) LOSS OF GOODWILL OR REPUTATION, (C) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY SOFTWARE, (D) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (E) COST OF REPLACEMENT GOODS OR SERVICES, OR (F) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF

WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

- d. IN NO EVENT WILL THE AGGREGATE LIABILITY OF LICENSOR ARISING OUT OF OR RELATED TO THE PRODUCTS AND/OR THE SOFTWARE, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO LICENSOR IN CONNECTION WITH THE PRODUCT THAT SOFTWARE IS USED TO OPERATE IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
14. Contingencies and Force Majeure. Supplier shall not be liable for failure to fulfill its obligations for any accepted Order or for any delay in delivery or non-delivery, in whole or in part, to the extent such failure or delay is prevented or hindered as a consequence of any force majeure; where "force majeure" means a fact or circumstance beyond the control of Supplier or Supplier's suppliers, including, but not limited to, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, binding acts or orders of any governmental body, court or official, labor dispute, accident, fire, explosion, flood, storm or other act of God, epidemics, pandemics, disease outbreaks, shortage of labor, fuel, component materials, raw materials, machinery or technical failure where Supplier has exercised ordinary care in the prevention thereof.
15. Miscellaneous. This Agreement shall be governed by and construed in accordance with the substantive laws and not the law of conflicts of the State of Tennessee. All disputes under this Agreement shall be resolved in the applicable state or federal courts located in Rutherford County, Tennessee, United States. The parties consent to the jurisdiction of such courts, agree to accept service of process by mail, and waive any jurisdictional or venue defenses otherwise available. If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement. BOTH PARTIES HEREBY WAIVE ALL RIGHT OR ENTITLEMENT TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE THAT ARISES OUT OF OR RELATES IN ANY WAY TO THIS AGREEMENT.