

CREAFORM INC

TERMS AND CONDITIONS OF SALE

THE FOLLOWING ARE THE TERMS AND CONDITIONS APPLICABLE TO ALL ORDERS (“**Orders**”) FOR THE SALE OF PRODUCTS (“**Products**”), SOFTWARE (“**Software**”) OR SERVICES (“**Services**”) BY CREAFORM (as defined hereinafter) (the “**Seller**”) TO A BUYER. ANY ACCEPTANCE OF ANY ORDER OF BUYER IS CONDITIONED UPON THESE TERMS AND CONDITIONS. ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS PROPOSED BY A BUYER ARE EXCLUDED AND OBJECTED TO AND SHALL NOT BIND CREAFORM UNLESS SPECIFICALLY STATED IN WRITING BY CREAFORM.

For the purposes of these Terms and Conditions, Seller shall include any affiliated or subsidiary entities that are part of the same corporate group, anywhere located, as the Seller and which is identified as such in pre-Order proposal documents.

The Buyer shall be the entity or person identified as such in any purchase order resulting in an Order to which these Terms and Conditions apply.

I. PRICES

All prices are subject to change without notice in the event of any changes in cost of materials or labor, specifications, quantities, delivery schedules, customs duties, other factors beyond Seller’s control, or in the event of delays caused by instructions of the Buyer, or failure of the Buyer to give Seller adequate information. Further, prices payable by the Buyer shall be subject to immediate increase, should the Seller as a result of governmental action or regulation including, without limitation, those contemplated by an investigation under Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862), incur additional duties, tariffs or restrictions on products sold hereunder, or on the raw materials that are used in making such products. In no event shall prices include any amounts imposed on the Buyer in connection with Buyer’s purchases from Seller, such as taxes, including but not limited to Value Added Tax (VAT) or excise taxes, duties, tariffs, or any other costs assessed against the Buyer by a governmental authority.

II. PAYMENT

A. The terms of payment shall be net 30 days from date of Seller’s invoice, unless otherwise specified. Payments shall be made by Buyer without any deduction or set-off. Payment shall be made in the currency identified in the pre-Order proposal documents. Seller may charge late payment fees at the rate of 18% per annum (1.5% per month) or the highest rate permitted by law.

B. Should the financial condition of Buyer be unsatisfactory to Seller, Seller may require full or partial payment in advance, or satisfactory security, in the form of a letter of credit or other financial document. In the event of bankruptcy or insolvency of Buyer, Seller may cancel any Order than outstanding.

C. Buyer agrees that any Products, Software and Services sold pursuant to an Order shall remain the property of Seller until such time as full payment of the purchase price has been made.

D. Buyer grants Seller a purchase money security interest in Products located in Canada, (or rights of a similar nature in other jurisdictions and territories, as the case may be) or Services, as well as any proceeds, for the purpose of securing the obligations of Buyer hereunder. Buyer authorizes Seller to execute on Buyer’s behalf and file such financing statements as Seller deems appropriate to perfect and notify Buyer’s creditors of Seller’s security interest.

E. Should Buyer fail to make full payment of the purchase price in accordance with the terms and conditions set out in the Order, Seller shall, at its sole discretion, pursue any available remedies, including judicial action to collect any remaining balance of the purchase price, deactivation of software license, recovery of product, suspension of shipments on remaining orders, or any other remedies available at law of equity.

Buyer shall be responsible for any legal fees or expenses incurred by Seller in connection with its collection or enforcement efforts. Buyer further agrees that upon any default of payment of the purchase price, the payment of the entire balance shall immediately become due and payable in full.

F. No waiver by Seller of its rights under these conditions shall be deemed to constitute a waiver of subsequent breaches or defaults by the Buyer. In the event that more than one Product is being purchased pursuant to an Order, unless otherwise set forth herein, each payment received by Seller from Buyer shall be applied pro rata against the cost of each Product rather than being applied to the purchase price of any one Product.

III. DELIVERY

Delivery dates are approximate and are dependent on prompt receipt by Seller of all necessary information. Seller may deliver all or any part of Products or Services as early as 30 days in advance of agreed schedule. The point of delivery shall be "Ex-works" Seller's premises, unless otherwise specified by Seller. Upon delivery, title to Products and all risk of loss or damage thereto shall pass to Buyer. Where Buyer notifies Seller that it cannot take timely delivery of the Products, Seller may place such Products in storage, at the risk of Buyer, and Buyer shall reimburse Seller for all expenses incurred in connection with such storage. Buyer shall dispose of the packing materials for Products at its own expense, and shall defend, indemnify and hold harmless Seller from any legal obligations in connection with such packing waste.

IV. INSTALLATION

A. Handheld measurement systems and software

Unless otherwise specified, the Buyer shall be responsible for installation of the Products, including, without limitation, the preparation of its premises, the uncrating of the Products and their set up for operation. In all cases, Buyer will be responsible for compliance of its facilities with applicable building, electrical and similar standards or codes.

B. Automated quality control products and software

Unless otherwise specified, Buyer shall be responsible for the preparation of its premises (including minimum space requirements, floor preparation, lighting, pneumatic and any other utility connections) and supporting installation by providing fork lift operation and all electrical and mechanical expertise onsite requirements. Seller shall be responsible of uncrating, floor drilling, assembling, startup, tuning and performing acceptance test of equipment.

V. EXPORT CONTROLS; FCPA; ANTI-BOYCOTT

A. Buyer shall not make any disposition of the Products, by way of transshipment, re-export, diversion or otherwise, except as applicable U.S. export laws and regulations may expressly permit, and other than in and to the ultimate country of destination specified on Order(s) or declared as the country of ultimate destination on Seller's invoices or in the End Use Statement that Buyer supplies Seller. Seller shall not be named as shipper or exporter of record or U.S. principal party-in-interest (USPPI) unless specifically agreed to in writing by Seller in which case, Buyer shall provide Seller with a copy of the documents filed by Buyer for Export clearance purposes. At Seller's request, Buyer shall supply end-use and end-user information to determine export license applicability. Failure of Buyer to comply with this section shall constitute a material default allowing Seller to cancel related Order(s) without liability.

B. Buyer warrants that it shall not violate or cause the Seller to violate the U.S. Foreign Corrupt Practices Act of 1977(FCPA), as amended, the United Kingdom Bribery Act (UKBA) of 2010, as amended, or their respective implementing regulations in connection with Buyer's sale or distribution of the Products and/or Services, and that Buyer does not know or have reason to believe that any consultant, agent, representative or other person retained by Buyer in connection with the sale and/or distribution of Products/Services has violated, nor caused Seller to violate the FCPA and/or the UKBA. Where Buyer learns of or has reason to know of any violation of FCPA and/or or UKBA in connection with the sale or distribution of Products/Services, Buyer shall immediately advise Seller.

C. Buyer further warrants that Buyer shall not violate or cause Seller to violate the U.S. Antiboycott Provisions of the U.S. Export Administration Regulations issued pursuant to the U.S. Export Administration Act of 1979, as amended, in connection with Buyer's purchase of Products/Services and that Buyer shall not request or require Seller to make statements or certifications against countries that are not subject to boycott by the U.S.

D. Buyer hereby acknowledges that Seller transacts its business on a worldwide basis and is required to comply with the export control, anti-corruption and ethical business legislation and rules in several countries. As a result, Buyer agrees, in addition to the above, to comply with any such rules in any country, and accepts that Buyer alone shall be responsible for obtaining the required information as to the applicable rules in any particular country.

VI. WARRANTIES

A. Seller warrants that Products manufactured by Seller, when delivered, for a period of 1 year from delivery (ref. section III) shall be free from defects in material/workmanship. Seller warrants that Services shall be performed in accordance with generally accepted industry practice and purchase order for a period of 90 days from performance. Seller's obligations under this warranty shall be limited exclusively to repairing or replacing, at Seller's option, any part of Products which, if properly installed, used and maintained, proved to have been defective in material or workmanship within 1 year from the date of delivery (ref. section III), or re-performing the Services. Seller makes no warranty, express or implied, that the operations of the software or firmware shall be uninterrupted or error-free, or that functions contained therein shall meet or satisfy the Buyer's intended use/requirements. Buyer shall notify Seller of any defect in the quality or condition of Products (including software/firmware) or Services within 7 days of the date of delivery or performance.

B. Seller's warranty obligations shall not apply to Products which (1) have been altered or repaired by someone other than Seller, or (2) have been subjected to misuse, neglect, or improper use or application, or (3) are normally consumed in operation, or (4) have a normal life inherently shorter than the warranty period stated therein.

C. Third party products are excluded from Seller's warranty.

D. No Products may be returned unless authorized in advance by Seller, and then only upon such conditions to which Seller may agree. Buyer must obtain a Return Material Authorization (RMA) number from Seller prior to any return shipment, and such RMA number must appear on the shipping label and packing slip. Buyer shall be responsible for returned Products until such time as Seller receives the same at its facility, and for all charges for packing, inspection, shipping, transportation or insurance associated with returned Products.

E. If the Buyer requires on-site support service or repair, Buyer agrees that it will assume the cost of Seller's on-site labor charge plus travel and accommodation as per Seller's then effective rate.

F. This section VI sets forth the exclusive remedies and obligations for claims based upon defects in or nonconformity of Products/Services, whether the claim is in contract, warranty, tort (including negligence of any degree or strict liability) or otherwise.

G. Seller expressly limits its liability and warranty obligations for any variation in the stated performance specifications of its Products in a controlled environment and on a specific product performance test procedure as referred-to on calibration certificate as opposed to their actual performance once installed in their working environment.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY. NO IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY.

VII. PATENTS/INDEMNITY

If Buyer receives a claim that Products or Software, thereof manufactured by Seller infringes a patent, Buyer shall notify Seller promptly in writing and give Seller information, assistance and exclusive authority to evaluate, defend and settle such claim. Where Buyer has furnished specifications/designs for the manufacture of the allegedly- infringing Products, Buyer shall defend, indemnify and hold harmless Seller against third-party claims for infringement arising out of Seller's use of such specifications/designs.

VIII. LIMITATION OF LIABILITY

The total liability of Seller on any claim, whether in contract, tort (including negligence of any degree and strict liability) or otherwise arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any Products/Services, shall not exceed the price allocable to the Products/Services or part thereof which gives rise to the claim. **IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT, (INCLUDING NEGLIGENCE OF ANY DEGREE, STRICT LIABILITY OR PATENT INFRINGEMENT) OR OTHERWISE, SHALL SELLER, ITS AFFILIATES, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR ANY LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR SERVICES, OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COSTS OR CLAIMS OF BUYER'S CUSTOMERS FOR DAMAGES OR FOR ANY SPECIAL, PROXIMATE, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES.** If Buyer transfers title to, or leases Products sold hereunder to, or otherwise permits or suffers use by, any third party, Buyer shall obtain from such third party a provision affording Seller and its subcontractors/suppliers the protection of the preceding sentence. Any action against Seller must be brought within 18 months after cause of action accrues.

IX. EXCUSABLE DELAYS

A. Seller shall not be liable for delays in delivery or failure to perform due directly or indirectly to causes beyond Seller's reasonable control including but not limited to: acts of God; war; terrorism; civil commotion; riots; embargoes; government regulations, orders, instructions or priorities; port congestion; acts of or failure to act on the part of Buyer or its agents/employees; fires; floods; sabotage; nuclear incidents; earthquakes; storms; epidemics; strikes; lockouts or other labor difficulties; shortages of or inability to timely obtain proper labor, materials, components, shipping space or transportation, fuel, supplies or power at current prices; or due to limitations imposed by the extent of availability of Seller's normal manufacturing facilities.

B. If a delay excused per the above extends for more than 90 days and the parties have not agreed upon a revised basis for continuing providing Products/Services at the end of the delay, including adjustment of the price, then either party (except where delay is caused by Buyer, in which event only Seller) upon thirty (30) days' notice may terminate the Order with respect to the unexecuted portion of the Products/Services, whereupon Buyer shall promptly pay Seller its reasonable termination charges upon submission of Seller's invoices thereof.

X. ADDITIONAL LIMITATION-EQUIPMENTS, SOFTWARE AND SERVICES FOR CUSTOM INTEGRATIONS

In the event Seller supplies Product, Software and/or Services to Buyer, or its third party source, as components of a customized solution, Seller's responsibility is limited only to the components supplied by Seller.

The Buyer specifically agrees that Seller will not have responsibility for, or incur any liability whatsoever, the integration of the Products, Software and Services sold with any other components provided by third party sources nor for the development or implementation of the complete inspection solution provided to the end-user, whether developed by the Buyer.

Products, Software and Services delivered by Seller to a third party for integration purposes must be formally accepted as compliant for such purposes by the third party within five (5) days of delivery of the Products, Software and Services. Any deficiencies or unsuitability for the intended integration must be notified in writing to Seller within the above five (5) day period. Should the third party fail to provide Seller with such notice within the stated five (5) day period, the Products, Software and Services will then be deemed to have been accepted by the third party.

The Buyer hereby accepts the above disclaimer and confirms that the end-user will be informed in writing of these conditions.

XI. SOFTWARE/TECHNICAL/PROPRIETARY INFORMATION

A. Buyer shall not acquire any rights to any software which may be delivered with Products, except as granted in Seller's standard software license. Any software license granted in connection with Products shall be an interim license, which may be withdrawn, pending payment for Products in full.

B. The purchase of Products shall not include any right to supply of technical information such as drawings or specifications.

C. Proprietary information, including drawings, documents, technical data, reports, software, designs, inventions and other technical information supplied by Seller in connection herewith (hereinafter called "Data"), shall remain Seller's sole property and shall be held in confidence by Buyer. Data shall not be reproduced, used or disclosed to others by Buyer without Seller's prior written consent. Upon completion of Order, Buyer shall promptly return all Data to Seller together with all copies or reprints thereof then in Buyer's possession or control, and Buyer shall thereafter make no future use, either directly or indirectly, of any Data or any information derived therefrom without Seller's prior written consent. The foregoing shall in no way obligate Seller to provide or supply Data.

D. The Software is a mathematical analysis tool intended to assist Buyer in its mechanical integrity analysis. Buyer hereby recognizes that the use of the software and the interpretation of the computed data require considerable skills and judgment. The Software and Product are not intended to be, nor are they, a substitute to a rigorous and comprehensive mechanical integrity analysis done by a qualified engineer.

XII. LICENSE

Some of Seller's Products require installation, use or connection to Software including custom configurations, Macros or other. Buyer may be required to execute separate license agreements and the terms and conditions of those licenses shall apply.

Subject to these Terms and Conditions, Seller grants Buyer a non-exclusive, non-transferable, non-sublicensable license ("**License**") to use the copy of the Software contained in the Products for Buyer's internal business purposes only. Termination of this License for any reason shall not terminate the other terms of these Terms and Conditions This License authorizes Buyer to do the following:

A. Install the Software on computers within Buyer's organization for use and execution solely for the purpose of acquiring and post-processing data associated with the operation of the Products.

Buyer is NOT authorized under this License to, and agrees NOT to:

B. Use, copy or transfer non-authorized copies of the Software or any associated documentation;

C. Disassemble, decompile or otherwise reverse engineer the Products or the Software in order to discover the source code or related proprietary information and trade secrets, or have a third party do so, except to the extent expressly permitted by applicable law notwithstanding this limitation;

D. Rent, lease, sublicense, distribute, transfer, modify or timeshare the Software, except as provided in the Order;

E. Use the Software to enable and/or insert viruses, Trojan horses, worms, time bombs, cancelbots, or other code intended to damage, detrimentally interfere with, surreptitiously intercept or misappropriate any system or data; or

F. Interfere with the operability of any Seller programs or third-party programs that work with Seller programs in conjunction with the Products.

XIV. GENERAL

A. The rights and obligations of the Buyer and Seller hereunder shall be governed in all respects by the law applicable in the Province of Quebec, Canada. The exclusive forum for adjudication of any disputes shall be the federal or provincial courts sitting in the judicial district of Quebec City, Canada, and Buyer and Seller both hereby consent to personal jurisdiction and venue in such courts in any proceeding. The United Nations Convention on the International Sale of Goods shall not apply.

B. These Terms and Conditions together with any other terms specifically agreed to in writing by Seller constitute the entire agreement between Buyer and Seller and supersede any prior or contemporaneous representations, agreements, proposals, warranties, or understandings, oral or written, express or implied. No waiver, modification, amendment, rescission or other change to these Terms and Conditions shall be binding unless specifically agreed to in writing by an authorized representative of Seller.

C. The invalidity, of any part hereof shall not affect the validity of the remainder. The failure of Seller to assert any right at any time hereunder shall not prevent Seller's subsequent assertion of the same or different rights.

D. Buyer may not assign this contract without the prior written approval of the Seller.

E. Buyer may not use Seller's name or any Seller trademarks in any manner, without the written consent of Seller.

F. The English language version of these Terms and Conditions shall govern and control any translations of the Terms and Conditions into any other language.

XV. STATUTORY REQUIREMENTS

Seller reserves the right to make any changes in the general specifications of the Products which are required for the Products to conform to any statutory requirement.