

GENERAL TERMS AND CONDITIONS OF SALE

1. General Terms and Conditions of Sale. Any sale (“Sale”) by Fluicell AB (“Seller”) of any goods, materials, services, supplies, and/or products (“Products”) to a buyer (“Buyer”) in respect of such Sale, shall be governed by the agreement (“Agreement”) entered into by the parties, the terms and conditions set forth herein, the End-User Software License Agreement (Exhibit 1) and the Instructions for Use (Exhibit 2), and the terms & conditions on after-sales service (collectively, the “Terms”). By signing the Agreement, Buyer agrees expressly to comply with all the Terms. In case of any inconsistency among the different documents of Terms, the documents shall prevail in the following order: (i) the Agreement; (ii) these General Terms and Conditions of Sale; (iii) Exhibit 1; and (iv) Exhibit 2.

2. Software. In order to be able to use a Product, the Product needs to be connected to software developed by Seller (the “Software”). The use and licensing of the Software shall be governed by the terms of the end-user software license agreement set out in Exhibit 1 (“End-User Software License Agreement”).

3. Order. Buyer shall place its purchase order to Seller by e-mail, mail or telephone. An order is not binding on Seller unless it has been accepted by Seller in writing. If Seller has made any change or addition in its acceptance of Buyer’s order, such change shall be binding on Buyer unless it is rejected in writing by Buyer within two working days. Buyer has no right to cancel any order placed. Any change by Buyer to any Sale (including quantity) is not binding unless accepted by Seller in writing.

4. Prices; Taxes. The price of the Products shall be set forth in the Agreement, or, if no price is stated in the Agreement, on the invoice issued by Seller. Except for taxes on Seller’s net income, Buyer shall be liable for and pay all sales, excise, and other taxes and duties, and other customs charges, relating to any and all Sales hereunder. Unless otherwise agreed by the parties in writing, the prices provided by Seller are exclusive of VAT, transportation costs, any taxes, duties or charges which may be levied on the Sale of Products.

5. Terms of Payment; Certain Remedies. Buyer shall pay in full the amount of each invoice net 30 days from the invoice date specified on the invoice unless otherwise agreed in writing by Seller. Seller may charge interest on the outstanding balance in case of delay in payment by Buyer at an annual rate of eighteen percent (18%) or, if less, the maximum rate of interest permitted by law. If Seller determines, in its discretion, that the creditworthiness of Buyer is unsatisfactory, Seller may require full or partial payment before proceeding with its performance under each Sale.

6. Risk of Loss; Shipment; Delivery Time; Title. Risk of loss or damage to the Products shall pass from Seller to Buyer as soon as the Products are packed and ready for delivery to the carrier for shipment. Unless otherwise stipulated in the Agreement, delivery of Products shall be made Ex Works (Incoterms 2010). The delivery date set forth in any communication by Seller to Buyer in connection with a Sale is only an estimate based on then present scheduling requirements. The title of the Products shall remain with Seller until Buyer has paid in full for the relevant Products.

7. Delay in Delivery; Force Majeure. Delay in delivery or non-delivery of Products, in whole or part, or other delay in performance of Seller’s obligations with respect to a Sale shall not be a breach of Seller’s obligations if: (i) Seller’s performance has been made impracticable by acts of God, war, insurrections or riots, government priorities, fires, floods, quarantine restrictions, transportation, power or communications failures, strikes or other labor disputes, shortages of materials necessary to perform Seller’s obligations, or any other occurrence beyond the control of Seller; (ii) such delay or non-delivery results from Seller’s good faith compliance with any applicable law, rule, regulation, or directive; or (iii) such delay or non-delivery is caused by any circumstances attributable to Buyer. Notwithstanding the foregoing, Buyer shall not be relieved from accepting delivery at the price then in effect when the cause interfering with delivery has ceased.

8. Warranty. Seller represents and warrants to Buyer that all Products manufactured by Seller are free from defects for one (1) year from the date of delivery (the “Warranty”). If Buyer and Seller have entered into a service agreement for the Product, this warranty may be extended in time if and as specified in such service agreement. A Product is considered defective only if it is

not compliant with the specifications thereof. The Warranty is limited to the repair or replacement of the Products which are determined to be defective through inspection and evaluation by Seller or a representative designated by Seller. This Warranty shall be null and void if the Product is found to have been damaged due to misuse or mishandling, or any unintended use. This Warranty shall not apply to normal tear and wear. Shipping the Product to Seller for return or repair and/or replacement will be the responsibility of Buyer unless otherwise agreed in writing by the parties. Shipping the Product back to Buyer after repair or replacement will be the responsibility of Seller. Any unauthorized repair or alteration of the Product will void this Warranty in its entirety. EXCEPT AS PROVIDED IN THIS SECTION 8, SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FOR THE AVOIDANCE OF DOUBT, SELLER IS NOT RESPONSIBLE FOR ANY WARRANTY BUYER PROVIDES TO ITS CUSTOMERS WHICH DEVIATES FROM THIS SECTION 8.

9. Limitation of Liability. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES RELATED IN ANY WAY TO THE PRODUCTS (INCLUDING NEGLIGENCE) EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL SELLER’S LIABILITY FOR A SALE EXCEED THE AMOUNT PAID TO SELLER IN RESPECT OF SUCH SALE.

10. Disclaimer. IT IS ENTIRELY BUYER’S RESPONSIBILITY TO ENSURE SAFETY OF APPLICATION, SETUP, OR SYSTEM, WHICH THE PRODUCTS WILL BE USED IN. AS WELL AS IT IS BUYER’S RESPONSIBILITY TO ENSURE, THAT THE SYSTEM BUYER WILL USE MEETS WITH THE RELEVANT SPECIFICATION. BUYER IS FULLY AWARE OF THAT THE PRODUCTS ARE NOT INTENDED FOR CRITICAL APPLICATIONS, WHERE FAILURE OF THE PRODUCTS MAY RESULT IN HAZARD TO LIFE OR IN ANY OTHER WAY COMPROMISE SAFETY OF PERSON OR PROPERTY. ANY UNINTENDED USE IS ENTIRELY AT THE RISK OF BUYER, WHERE SELLER HAS NO LIABILITY.

11. Intellectual Property Rights. All inventions, ideas, works, and other intellectual property, produced, conceived, developed or acquired by Seller prior to or in connection with the performance of its obligations with respect to each Sale shall be and remain the sole and exclusive property of Seller. Buyer shall not acquire any intellectual property right or other rights to the Products (including the Software) by means of the Terms. Buyer shall immediately and in writing notify Seller if a third party addresses any claim towards Buyer due to a Product/Software infringing or is claimed to infringe upon a third party’s intellectual property right. Buyer is obliged to attend to such claims according to Seller’s instructions and Seller is not liable for any infringement should Buyer violate this obligation. Should such infringement conclusively exist or if, according to Seller’s own assessment, it is plausible that such infringement exists, Seller shall at its own expense and at its own discretion either (i) ensure Buyer’s right to continue to use and sell said Product/Software, (ii) substitute the Product/Software with another equivalent product whose use shall not imply any infringement, or (iii) change the Product/Software correspondingly to ensure that no infringement exist. Seller is not liable for any infringement or alleged infringement upon a third party’s intellectual property right by the Product/Software if Seller has modified, created or produced the Product according to Buyer’s wishes, instruction, specification or design.

Buyer hereby grants Seller the right to use Buyer’s trademarks on Seller’s website, in promotional material, presentation material, etc. for reference purposes. Seller’s use of Buyer’s trademarks shall be made in good faith and, if applicable, in accordance with Buyer’s instructions.

12. Confidentiality. The Terms of each Sale and all information, drawings, data and other materials furnished, supplied or disclosed by Seller to Buyer are and shall remain confidential and Buyer shall under the duration of the Terms and thereafter not disclose or otherwise use such information except as is necessary to perform its obligations with respect to such Sale. Buyer shall return and/or destroy any confidential information upon request by Seller.

13. Indemnification. Buyer shall indemnify, defend and hold harmless Seller, its officers, directors, shareholders, employees and agents, and their respective successors and assigns (collectively, “Seller Indemnified Parties”) from and

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against any and all claims, losses, damages, injuries (including death), demands, causes of action, and costs and expenses (including reasonable attorneys' fees and expenses) for which any Seller Indemnified Party may suffer or may be held liable, as a result of or arising out of any (i) use of the Products/Software by Buyer other than in accordance with the supplied Product/Software documentation; (ii) Buyer's breach of any of the Terms; and/or (iii) any infringement or alleged infringement of a third party's intellectual property rights by the Product if Seller has modified, created or produced the Product according to Buyer's wishes, instruction, specification or design.

14. Cancellation. Seller shall have the right without any liability whatsoever, to cancel any Sale to Buyer, and retain all remedies for breach, if at any time (a) all Terms are not strictly complied with by Buyer; or (b) Buyer becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, goes out of business, or any proceeding, voluntary or involuntary, involving Buyer is instituted under the bankruptcy or insolvency laws.

15. Dispute Resolution; Attorneys' Fees. Except for claims relating to Buyer's actual or threatened breach of Sections 11-12, in which event Seller may immediately resort to any legal remedy available at law and/or in equity, any dispute, controversy or claim arising out of, or in connection with, the Terms, or the breach, termination or invalidity thereof, or any non-contractual obligations arising out of or in connection with the Terms, shall be finally settled by one and same arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce. The Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply, unless the institute – taking into account the complexity of the case, the amount in dispute and other circumstances – determines, in its discretion, that the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply. In the latter case, the institute shall also decide whether the arbitral tribunal shall be composed of one or three arbitrators. The seat of arbitration shall be Gothenburg, Sweden. The language of the arbitration shall be English. In any action or

proceeding between the parties hereto or brought to enforce the Terms, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs. All arbitral proceedings conducted pursuant to this Section 15, all information disclosed and all documents submitted or issued by or on behalf of any of the disputing Parties or the arbitrators in any such proceedings as well as all decisions and awards made or declared in the course of any such proceedings shall be kept strictly confidential and may not be used for any other purpose than these proceedings or the enforcement of any such decision or award nor be disclosed to any third party without the prior written consent of the Party to which the information relates or, as regards to a decision or award, the prior written consent of all the other disputing Parties.

16. Miscellaneous. All Sales and the Terms thereof between Seller and Buyer shall be governed in all respects by the laws of Sweden without regard to conflicts of law principles. United Nations Convention on Contracts for the International Sale of Goods shall not apply. No Sale shall be assignable or transferable by Buyer without the prior written consent of Seller. No course of dealing between Seller and Buyer or delay on the part of Seller in exercising any rights hereunder shall operate as a waiver of any Seller's rights hereunder. The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of the rest of the Terms. For each and every Sale, the Terms supersede all prior agreements and understandings between the parties regarding each such Sale and are the final and complete expression of their agreements with respect thereto. The relationship of Buyer to Seller is solely that of an independent contractor. Sections 7-13 and 15-16 shall survive, without limitation, any cancellation or termination of any Sale or the acceptance of the Products or payment thereof.