

Nexus Technology, Inc.

Terms and Conditions

Nexus Technology, Inc., 78 Northeastern Blvd. Unit 2, Nashua, New Hampshire, U.S. ("Nexus") and Customer agree that all Products provided by Nexus to Customer are provided on the following terms and conditions. Any different or additional terms proposed by Customer, or any amendment or modification of the following terms and conditions are hereby rejected in their entirety, unless expressly agreed to in writing by an authorized representative of Nexus.

1. General Definitions

1.1 "Hardware Products" shall mean all of the hardware described in the Bill of Materials in a quantity specified in the Purchase Order provided by Nexus.

1.2 "Software Products" shall mean: (a) all of the Software (as defined in Section 9) described in the Bill of Materials in a quantity specified in the Purchase Order provided by Nexus.

1.3 "Products" shall mean all of the Hardware and Software Products.

1.4 "Agreement" shall mean the term and conditions set forth herein.

1.5 "Permitted Number" shall mean the quantity of Products specified in the Purchase Order provided by Nexus. The Purchase Order may specify a Software Site License or a Global Corporate Software License in lieu of a Permitted Number.

2. Price

2.1 Prices are in U.S. dollars and exclusive of taxes, shipping, and insurance. U.S. domestic prices apply to products purchased in the U.S. for use in the U.S. U.S. export prices apply to products purchased in the U.S. for export.

2.2 Quotations. Unless otherwise indicated, price quotations are valid for thirty (30) days from date of issuance.

3. Sales Tax

Customer agrees to pay all federal, state, and local sales, excise, use, or similar tax based on payments made to Nexus hereunder.

4. Cancellation

4.1 Unless otherwise stated, all orders are Non-Cancelable and Non-Returnable (NCNR) after receipt of order.

5. Shipping and Delivery

Nexus will schedule shipments based on Customer's requests and Nexus' estimated shipping capability. Nexus may make partial shipments unless Customer's order specifically objects to partial shipments. Delivery will be Ex Works (EXW) Nexus' shipping dock. For products shipped freight prepaid, Nexus will bill Customer a charge

on the invoice as a single item identified as freight charge. Nexus shall not be liable for any delay or failure to deliver resulting from circumstances beyond Nexus' reasonable control or which would cause Nexus to incur unreasonable expense to avoid.

6. Title, Risk of Loss, and Security Interest

Title to all Hardware Products and risk of loss shall pass to Customer upon tender to the shipping carrier. Title to Software Products shall remain with Nexus. The physical media, if any, upon which any Software product is provided shall be considered a Hardware Product. Nexus reserves a security interest in each Hardware Product until the entire amount due hereunder has been paid.

7. Invoices and Payment

Upon each shipment, Nexus will issue an invoice to the address specified in Customer's order. Payment terms are cash upon delivery or at the option of Nexus, net thirty (30) days from the date of the invoice. Customer agrees to pay the full amount shown on the invoice by the specified due date. All payment shall be in U.S. dollars. Nexus may change its credit terms, suspend performance under any order, or both, when, in the opinion of Nexus, Customer's current or prospective financial condition, or record of payment so warrants. Customer agrees to pay any third-party collection expenses, including attorney's fees, incurred by Nexus to collect any unpaid amounts.

8. Limited Warranty – Hardware Products

Nexus warrants that the Hardware Products are free from defects in materials and workmanship for one year after the date the Hardware Products are shipped to Customer. If any such product proves defective during the warranty period, Nexus will repair or replace the defective product at Nexus' option.

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, NEXUS AND ITS VENDORS DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEXUS' RESPONSIBILITY TO REPAIR OR REPLACE A DEFECTIVE HARDWARE PRODUCT IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO THE CUSTOMER FOR BREACH OF THIS WARRANTY.

9. Limitation of Liability – Hardware Products

IN NO EVENT SHALL NEXUS OR ITS VENDORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF CUSTOMER'S PURCHASE OR USE OF ANY HARDWARE PRODUCT, EVEN IF NEXUS OR ONE OF ITS VENDORS HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

10. Software Products

10.1 Software Products Definitions

(a) "Software" shall mean (i) all of the contents of files, disks, or other media provided to Customer by Nexus with this Agreement, which may include "Support Software," whether provided on physical media, such as on a disk, or electronically, such as by download from Nexus' Website, and which may include object code and explanatory written materials ("Documentation"); (ii) all upgrades, modified versions, updates, additions, and copies of the items described in (i) provided to Customer by Nexus at any time and in any manner; and (iii) Ancillary Software.

"Ancillary Software" shall mean all of the contents of files, disks, or other media made available to Customer by Nexus for Customer's optional use, which may include "Ancillary or Add-On Support Software," whether provided on physical media, such as on a disk, or electronically, such as by download from Nexus' Website, and which may include object code and explanatory written materials ("Documentation"), and all upgrades, modified versions, updates, additions, and copies of the foregoing made available to Customer by Nexus at any time and in any manner.

(b) "Computer" shall mean an electronic device that accepts information in either analog or digital form and manipulates the information to obtain a specific result based on instructions, including, but not limited, for example, the following: a personal computer, a logic analyzer, an oscilloscope, or any similar computer or test-and-measurement device.

(c) "Use" shall mean to access, install, download, run, copy, or otherwise benefit from the functionality of the Software.

10.2 Software License

Nexus grants to Customer a non-exclusive license to use the Software in the manner and for the purposes described in the Documentation as follows:

(a) Customer may use the Software on up to the Permitted Number of Customer's Computers. If the Permitted Number is not specified, customer may use one (1) copy of the Software on one of the Customer's Computers. If the Purchase Order specifies a Software Site License in lieu of a Permitted Number, then Customer may use one copy of the Software on each Computer located at the Customer's Site specified in the Purchase Order. If the Purchase Order specifies a Global Corporate Software License in lieu of a Permitted Number, then Customer may use one copy of the Software on each Computer located in an office of Customer.

(b) Customer may use the Software only with (i) Nexus Hardware Products, such as adaptors, interposers, and similar hardware interface and signal acquisition products, and (ii) circuit boards providing a direct means of connection to target signals (an embedded interface), which do not require a Nexus Hardware Product for interfacing or signal acquisition, and which are designed and manufactured by, or under the direction, of Customer. Customer shall not use the Software with third-party hardware interface or signal acquisition products.

(c) Customer shall not install the Software on a file server Computer, except that if a Site or Global Corporate Software License is specified in the Purchase Order, the Software may be installed on a file server Computer accessible only by employees of Customer for internal distribution only.

(d) Customer shall not sublicense or distribute the Software to third parties.

(e) Customer acknowledges that the Software is owned and copyrighted by Nexus, and that this Agreement transfers no title or ownership in the Software or a particular copy of the Software to Customer, other than an ownership interest in the physical media, if any, upon which such Software may be provided.

(f) Customer may make one (1) backup copy of the Software, provided the backup copy is not installed or used except to restore use on an authorized Computer.

(g) If the Purchase Order specifies a Software Site License, the Customer Site specified in the Purchase Order shall not be changed by Customer to another location at any time subsequent to Nexus acceptance of Customer's order without prior written consent from an authorized representative of Nexus.

10.3 No Modification or Reverse Engineering

Customer shall not modify, adapt, translate, or create derivative works based upon the Software. Customer shall not reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of the Software except to the extent reverse engineering or decompiling is expressly permitted by applicable law.

10.4 Transfer

Except where the Purchase Order specifies a Software Site License or a Global Corporate Software License in lieu of a Permitted Number, Customer may transfer all of Customer's rights to use the Software to another person or legal entity ("Transferee") provided:

(a) Customer provides the Transferee a copy of this Agreement and any other terms and conditions upon which Customer obtained the Software, and the Transferee agrees to all of terms and conditions of this Agreement and all other applicable terms and conditions;

(b) Except as provided below, Customer transfers all copies of the Software, the Ancillary Software, and the Hardware Products to the Transferee; and

(c) Except as provided below, Customer retains no copies of the Software, the Ancillary Software, nor any Hardware Products.

Where the Permitted Number is greater than one and Customer desires to transfer less than one of the Permitted Number of Products, Customer shall transfer its license to use a first number of copies of the Software and the Ancillary Software, and a first number of the Hardware Products to the Transferee. In this event, the Customer may retain its license to use a second quantity of copies of the Software and the Ancillary Software, and a second quantity of the Hardware Products, provided the sum of the first and second quantities does not exceed the Permitted Number.

If the Purchase Order specifies a Software Site License or a Global Corporate Software License, then Customer shall not sell, re-license, sub-license, assign, or otherwise transfer to any other person or legal entity Customer's right to use the Software granted hereunder without the express prior written consent of Nexus.

10.5 Failure to Comply with Terms of Agreement

All rights to use the Software are granted on the condition that such rights are forfeited in the event Customer fails to comply with the terms of this Agreement. Customer's license to use the Software Products shall terminate upon breach of this Agreement by Customer.

10.6 No Warranty – Software Products

THE SOFTWARE IS PROVIDED "AS IS" AND WITH ALL FAULTS. NEXUS DOES NOT WARRANT THE PERFORMANCE OR RESULTS CUSTOMER MAY OBTAIN BY USING THE SOFTWARE. EXCEPT TO THE EXTENT ANY WARRANTY, CONDITION, REPRESENTATION, OR TERM MAY NOT BE EXCLUDED UNDER APPLICABLE LAW, NEXUS MAKES NO WARRANTIES, CONDITIONS, OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO ANY MATTER INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR ANY WARRANTY ARISING FROM A COURSE OF DEALING, USAGE, CUSTOM, OR TRADE PRACTICE.

10.7 Limitation of Liability - Software Products

IN NO EVENT WILL NEXUS OR ITS SUPPLIERS BE LIABLE TO CUSTOMER FOR ANY DAMAGES, CLAIMS, OR COSTS WHATSOEVER, INCLUDING ANY CONSEQUENTIAL, INDIRECT, OR INCIDENTAL LOSS OR DAMAGES, OR ANY LOST PROFITS OR LOST SAVINGS, EVEN IF NEXUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, DAMAGES, OR CLAIMS. THE FOREGOING APPLIES TO THE EXTENT PERMITTED BY APPLICABLE LAW. NEXUS' AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT PAID, IF ANY, FOR THE SOFTWARE.

11. Intellectual Property

The Products embody the intellectual property of Nexus. Aspects of the Products include valuable and confidential information of Nexus that is protected by trade secret law. Aspects of the Products are also protected by copyright law. Customer agrees not to disclose any matter not generally known to the public that is related to the Products without the prior written consent of Nexus. Customer acknowledges that, except as expressly stated herein, all intellectual property rights in the Products are owned by and reserved to Nexus.

12. Export Restrictions

Customer shall not export, re-export, or transfer directly or indirectly, any product or technical data received hereunder, to any country or user to which such export, re-export, or transfer is restricted by United States or local country law or regulation without first obtaining any required governmental license, authorization, certification or approval.

13. Waiver

The failure of Nexus to enforce any provision of this Agreement shall not be construed as a waiver of such provision or the right thereafter to enforce each and every provision of this Agreement.

14. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire, United States, as if wholly performed in that state and without giving effect to the principles of conflicts of law.

15. Severability

If any part of this Agreement is found to be void and unenforceable, it shall not affect the validity of the balance of this Agreement, which shall remain in full force and effect.

16. Entire Agreement

This Agreement may be modified only by a writing signed by an authorized representative of Nexus. This Agreement constitutes the entire agreement between Nexus and Customer, and supersedes any representations, discussions, or communications between the parties occurring prior to the time of Nexus' acceptance of Customer's order.

17. Incorporation by Reference

The Bill of Materials, Purchase Order, and any other documents referred to herein are hereby incorporated herein for all purposes.