

**HEIDELBERG ENGINEERING, INC.
TERMS AND CONDITIONS OF SALE**

These Terms and Conditions of Sale ("Terms"), along with the information on the front of or attached to these Terms constitutes an agreement (collectively, the "Agreement") with Heidelberg Engineering ("HEI") with respect to the purchase of HEI products and services by the purchaser named on the front of or attached to these Terms ("Buyer") and the sale and delivery of such products and services by HEI. BUYER'S ORDER PURSUANT TO THIS AGREEMENT IS ACCEPTED SOLELY ON THE CONDITION THAT BUYER EXPRESSLY ACCEPTS AND ASSENTS TO THE TERMS AND CONDITIONS CONTAINED HEREIN.

1. **Order Acceptance; Agreement to Buy.** Notwithstanding anything else to the contrary, HEI is free to accept or reject purchase orders (each, an "Order") from Buyer. HEI's acceptance of an Order shall only occur upon the transmission of a written acceptance therefore by a duly authorized officer or agent of HEI. Accepted Orders can only be cancelled by Buyer upon written consent of HEI. In the event of cancellation or withdrawal of an Order for any reason, and without limitation to HEI's right to assert any other remedy to which HEI may be entitled, reasonable cancellation or restocking charges, including all expenses and commitments made by HEI, shall be due and immediately paid by Buyer on demand notwithstanding the above. NO TERM OR CONDITION SET FORTH IN BUYER'S ORDER OR IN ANY OF BUYER'S OTHER DOCUMENTS SHALL BECOME PART OF THIS AGREEMENT OR OTHERWISE BECOME BINDING ON HEI UNLESS EXPRESSLY AGREED TO IN WRITING BY HEI.
2. **Prices.** Any pricing set forth in a purchase quote issued by HEI is valid only for thirty (30) days from the date of the quote. All other pricing for HEI's products or services is as set forth in HEI's then-current price list and is exclusive of all packing and cartage costs, sales, use, excise or similar taxes, freight, duties, and applicable charges, which are the sole responsibility of Buyer and which shall be stated separately on HEI's invoice to Buyer. All sales are considered taxable unless a resale certificate is completed, signed, verified and provided to HEI prior to HEI's first shipment to Buyer. All taxes and duties are the sole responsibility of Buyer and shall be stated separately on HEI's invoice to Buyer.
3. **Trade-In Credit.** This Agreement may reflect a sales order credit for a trade-in of a third party product ("Trade-In Credit"). The Trade-In Credit is only a proposed credit for the third party product and is only available subject to Buyer's warranty as follows. Buyer warrants that it owns the third party product subject to the Trade-In Credit and that it will transfer such product to HEI free and clear of any liens, taxes or other encumbrances. The product subject to the Trade-In Credit must be in good, salable, working condition and must be shipped to HEI freight prepaid, FOB destination. Buyer bears all risk of loss for such products until they are received in the required condition by HEI. The Trade-In Credit is voidable by HEI unless (i) HEI is able to secure a purchaser for such product for a value equal to or exceeding the Trade-In Credit within thirty (30) days from the date of HEI's receipt of the third party product; and (ii) Buyer complies with all provisions of this Agreement, including the timely payment of all amounts due hereunder. To the extent that the Trade-In Credit is voided by HEI as provided above, the amount of the Trade-In Credit shall become immediately due and payable from Buyer. Regardless of the voiding of the Trade-In Credit, Buyer shall not be entitled to the return of the applicable third party equipment, to the extent that HEI has already transferred, destroyed or otherwise disposed of such products. To the extent that Buyer enters into a separate trade-in agreement with HEI the terms and conditions of such agreement shall govern the trade-in process and are hereby fully incorporated into this Agreement.
4. **Payment Terms.** Until Buyer is extended credit terms by HEI as indicated on the front of this Agreement, Buyer must pay all amounts for products ordered prior to shipment by HEI. Upon credit being extended to Buyer, payment in full is due for each HEI shipment upon receipt by Buyer unless otherwise stated in HEI's quotation. If payment is not received by the applicable due date, a late fee of one and one-half percent (1 ½%) per month of the unpaid balance, or the maximum amount allowed by law, whichever is less, shall be due and payable by Buyer. Should Buyer's financial responsibility and/or credit-worthiness become unsatisfactory to HEI, cash payments or satisfactory security may be required by HEI for future deliveries. Checks are accepted subject to collection. Any check received from Buyer may be applied by HEI against any obligation of Buyer to HEI under this or any other agreement, notwithstanding any statement appearing on or referring to such check. Acceptance of any partial payment shall not constitute a waiver of HEI's right to payment in full of all amounts owing from Buyer to HEI.
5. **Shipment Terms.** All products shall be shipped EXW (INCOTERMS 2010) HEI's facility, freight collect. All transportation charges shall be paid by Buyer on delivery unless otherwise set forth on the front of this Agreement. Subject to HEI's right of stoppage in transit, delivery of products to the carrier shall constitute delivery to Buyer and risk of loss shall thereupon pass to Buyer. Choice of carrier, shipping method and route shall be at the election of HEI unless specifically designated by Buyer. HEI may alter or modify any delivery dates set forth in this Agreement upon the occurrence of any event which, in HEI's sole discretion, makes such delivery impracticable or unreasonable, and Buyer agrees to hold HEI harmless from any claims resulting from such alteration or modification of any delivery date. HEI shall additionally not be liable for delays or damages suffered by Buyer in delivery or for failure to perform due to causes beyond the reasonable control of HEI, including, without limitation, acts of God, acts or omissions of Buyer or civil or military authorities, fire, strikes, epidemics, quarantine restriction, flood, earthquakes, riot, war, terrorism, computer virus, delays in transportation or inability to obtain necessary labor, materials or supplies. HEI shall be entitled to refuse or to delay shipments for failure by Buyer to promptly pay any payments due HEI on this or any other agreement between HEI and Buyer. HEI shall have the right to deliver all products covered hereby in a single lot or multiple lots, within the delivery time provided in such order. Buyer shall pay for storage charges if products are held by HEI at Buyer's request pending instruction or rescheduled delivery. Unless otherwise agreed upon in writing by HEI, Buyer is responsible for all transportation, insurance, duties and other applicable expenses associated with the shipment.
6. **Inspection And Acceptance Of Products.** Products are deemed accepted by Buyer unless Buyer notifies HEI in writing within fifteen (15) days of delivery of product shortages or defects, other than those caused by shipment and/or the common carrier. No returns may be made for any reason without a Return Material Authorization Number ("RMA") issued by HEI. HEI shall elect to credit the account or replace without charge to Buyer all products which, at the time of delivery, are not in accordance with their manufacturer's specifications. After notifying HEI of the defects as described above, Buyer must contact HEI to coordinate the return of such products to HEI's facility within thirty (30) days from date of delivery in original package and condition, and accompanied by a specification in writing of the defects involved. HEI shall be entitled to examine such products at Buyer's facilities prior to their return. Final inspection as to whether products meet their manufacturer's specifications shall be made at HEI's facility, or may be based upon the manufacturer's actual test report. Other than the foregoing inspection and acceptance provisions, all sales of products are final. Buyer shall have no right to return products or cancel products ordered prior to delivery, without the prior written consent of HEI. Notwithstanding the foregoing, HEI shall not issue a RMA beyond ninety (90) days from the date of delivery to Buyer of the applicable products.
7. **Title and Security Interest.** Notwithstanding anything else to the contrary, title to Products shall only pass to Buyer upon payment in full of the amounts due therefor. Until all amounts due for a product are paid in full, HEI retains all right and title to such product and Buyer holds such product as HEI's bailee. In addition, Buyer hereby grants to HEI a security interest in each unpaid Product and all proceeds thereof (collectively, the "Collateral") to secure the payment of the purchase price of such unpaid Product and all amounts now or hereafter due from Buyer therefor. Buyer authorizes HEI to file one or more financing statements in all states, counties and other jurisdictions as HEI may elect without Buyer's signature if permitted by law. Buyer agrees to cooperate fully with HEI in executing any additional documents, instruments, financing statements or amendments thereto as HEI may request to perfect or continue the security interest granted herein. Upon a breach by Buyer of any of its obligations to HEI, HEI shall have all rights and remedies of a secured party under the UCC, which rights and remedies shall be cumulative and not exclusive. Buyer agrees to pay HEI's reasonable costs and expenses (including but not limited to attorneys' fees and costs and any fees and costs incurred in connection with a bankruptcy proceeding of or involving Buyer or Collateral) incurred to collect any amount unpaid or to enforce HEI's other rights and remedies, whether or not suit is commenced.
8. **Software.** Any HEI proprietary software product covered by this Agreement is licensed, not sold, to Buyer. (Buyer is buying the license to use the software, not the software itself.) HEI hereby grants Buyer a non-exclusive license to use any HEI software product covered by this Agreement with the associated Products sold by HEI. Buyer shall not make any copies of the software, other than back-up or archival copies. Buyer shall not modify, alter, adapt, merge, decompile, disassemble or reverse engineer

the software. No transfer of the license to use HEI software is permitted without the consent of HEI. In no event is Buyer permitted to grant any sublicense to use HEI software to a third party or otherwise make HEI software or the use of HEI software available to any other person without the written consent of HEI. All licenses to use HEI software are perpetual, except that HEI reserves the right to terminate any license if Buyer breaches the license terms described in this Agreement. HEI assumes no obligation to provide any updates or upgrades to its software. If HEI does make a significant software update or upgrade available that according to HEI's records is relevant to Buyer, HEI will make reasonable efforts to notify Buyer of the existence of the update or upgrade and to make the update or upgrade available to Buyer. In general, HEI does not charge for updates but provides upgrades at a charge. However, HEI reserves the right to charge for significant updates. Any software product that is proprietary to a third party supplier and covered by this Agreement is provided to Buyer subject to the terms and conditions established by the third party supplier.

9. **Installation and Training.** If installation and/or training services are provided for with respect to instruments on this Agreement, these services will be scheduled at the mutual convenience of Buyer and HEI as soon as possible after Buyer has received the products. Any training commitments expire and become void upon the lapse of the three (3) month period after delivery of the corresponding HEI instrument.

10. **Warranty.** HEI warrants to the Buyer that, for a twelve (12) month period starting on the date of Buyer's receipt of the products and/or software (the "warranty period"), (i) the HEI proprietary products covered by this Agreement will be free from material defects in materials and workmanship; and (ii) the HEI proprietary software covered by this Agreement will materially comply with its then-current documentation as published by HEI. During the warranty period, HEI will, at its discretion either at an authorized service center or on site, repair or replace the necessary components, parts or subassemblies necessary to correct material defects in materials and workmanship in the products and/or any failure of the software to materially comply with its documentation or, if for any reason HEI determines that it is unable to correct any such defect, accept the return of the products and/or software covered by this Agreement and refund the purchase price paid by Buyer. This warranty does not apply to damages caused by the following: accidents, acts of God, misuse, alterations, repairs or modifications not performed by an authorized HEI representative, the failure to maintain a suitable installation environment (including electrical power, humidity control, temperature control, space, and computer platform and capacity), relocation, the use of supplies, materials or third party software not meeting HEI specifications or the use of the products and/or HEI proprietary software for purposes other than those for which they were specifically designed. In addition, this warranty does not apply to any software product that is proprietary to a third party supplier and covered by this Agreement (the warranty with respect to any such software product, if any, is the warranty provided by the third party provider of that product), and this warranty does not cover consumable parts and supplies (i.e., paper, light bulbs, printer ribbons, ink cartridges, storage media, fuses, etc.) used with the products and software. This warranty does not constitute a warranty that procedures performed using the products and software covered by this Agreement will be subject to reimbursement by any insurance carrier. This is the only warranty provided by HEI, AND HEI DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO ANY PRODUCTS AND/OR SOFTWARE, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, OR OTHERWISE, OR ANY WARRANTIES ARISING OUT OF COURSE OF CONDUCT OR OTHER TRADE CUSTOM OR USAGE, AND HEI ASSUMES NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR PERFORMANCE OR ADEQUACY OF ANY OF ITS PRODUCTS OR SOFTWARE. Buyer is responsible for the protection and integrity of all patient data, and HEI will not be liable for any loss of patient data.

11. **Warranty Service.** If Buyer needs warranty service, HEI will assist Buyer with the necessary arrangements to have the equipment shipped to an authorized service center. The shipping method, normally 2 day service, will be paid for by HEI. For warranty service or technical support call HEI at (800) 931-2230 during HEI hours of operation. HEI provides post-warranty period service of its instruments pursuant to a separate "Instrument Service Agreement."

12. **Exclusive Remedy.** Buyer's remedies for the failure of any products and software covered by this Agreement to comply with the warranty set forth above are exclusively as set forth in the "Warranty" section. HEI WILL NOT UNDER ANY CIRCUMSTANCES BE RESPONSIBLE FOR ANY OTHER DAMAGE, INCLUDING ANY DIRECT, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGE OR LOSS, ARISING FROM THIS AGREEMENT, ANY HEI PRODUCTS OR SOFTWARE, ANY HEI SERVICES, OR OTHERWISE, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, INJURY TO PERSONS, DAMAGE TO TANGIBLE PROPERTY OR DAMAGES RESULTING FROM ANY INABILITY TO USE ANY HEI PRODUCT OR SOFTWARE.

13. **Patents.** Under no circumstances shall HEI be obligated to indemnify, hold harmless or defend Buyer from any third party suit with respect to any claim of patent infringement, trademark, copyright, mask work right, trade secrets or similar proprietary rights.

14. **Prohibition Of Product Use In High Risk Applications.** Unless specifically otherwise agreed in writing by HEI, Buyer acknowledges that products sold by HEI are not intended for and will not be used in high risk applications, including but not limited to, life support systems, human implantation, nuclear facilities or systems, or any other application where product failure could lead to loss of life or catastrophic property damage. Buyer will indemnify, defend and hold HEI harmless from any loss, cost or damage resulting from Buyer's breach of the provisions of this paragraph, including, without limitation, attorneys' fees and costs relating to any lawsuit or threatened lawsuit, arising out of such use or sale.

15. **Integration.** This Agreement, comprised of these Terms along with the information on the front of or attached to these Terms embodies the entire agreement and understanding between the parties with respect to the products and software covered by this Agreement, and supersedes all prior agreements and understandings relating to the subject matter hereof, whether oral or written. This Agreement may only be modified by a written document executed by both parties and specifically referencing this Agreement and its amendment. This Agreement shall be interpreted and enforced under the laws of the State of Massachusetts, without application of its conflicts or choice of law rules.

16. **Export Compliance; U.S. Government Contracts.** Buyer acknowledges that products, services, technical data, and all information communicated from HEI that is intended for export, re-export and/or international sales, is made with full disclosure to HEI as to intended destination outside the United States and that Buyer is fully compliant with United States Export Laws. If Buyer's order is placed under a contract with the United States Government, HEI agrees to comply with those contract provisions and regulations with which, pursuant to law, it must comply and of which Buyer has, at the time of order placement, placed HEI on written notice. In no event will United States Government Cost Accounting Standards apply. No provision of Buyer's contract with the United States Government will be binding on HEI or the manufacturer except as expressly set forth in this paragraph. Any or all products may be subject to export or resale restriction or regulation, and Buyer acknowledges that it will comply with such regulations or restrictions and Buyer hereby indemnifies and shall hold HEI harmless from any loss, cost or liability that arises directly or indirectly out of any claim that Buyer failed to observe United States Export Laws. Any or all products may have been imported. Country of origin information is as provided to HEI by its suppliers and is, where applicable, located on the products themselves or the supplier's packaging.

17. **General.** All agreements, covenants, conditions and provisions contained herein shall apply to and bind the assignees and successors in interest of Buyer and inure to the benefit of HEI and its successors and assigns. If any provision or portion of this agreement is held to be invalid, illegal, unconscionable or unenforceable, the other provisions and portions hereof shall not be affected. The captions used herein are for the convenience of the parties only and shall not affect the construction or interpretation hereof. The parties expressly exclude the applicability of the United Nations Convention for the International Sale of Products. The exercise or failure to exercise any remedy shall not preclude the exercise of that remedy at another time or of any other remedy at any time. No action, regardless of form, arising out of, or in any way connected with, the products furnished or services rendered by HEI, may be brought by Buyer more than one year after the cause of action has accrued.