

XALYO SYSTEMS STANDARD TERMS AND CONDITIONS OF SALES

PREAMBLE

The Standard Terms and Conditions of Sales (“Agreement”) contained herein shall govern all deliveries and services rendered by Xalyo Systems Sarl, Gland, Switzerland, (“Xalyo”) to you (“Buyer”). This Agreement shall also apply, without a separate agreement to this effect being necessary to all future transactions with the Buyer.

This Agreement shall apply to the exclusion of all other terms and conditions, and Xalyo shall not be bound by any terms or conditions contained in any purchase order, acknowledgement, acceptance or other documents submitted by the Buyer which propose any terms or conditions in addition to or differing from the terms and conditions herein set forth, and objection is hereby made to any such terms and conditions of the Buyer. Xalyo’s failure subsequently to object to such terms and conditions contained in the Buyer’s documents shall not be deemed a waiver of any of these terms and conditions herein set forth. No amendment, deletion, supplement or change in these terms and conditions shall be binding upon Xalyo unless separately and specifically approved in writing and signed by a duly authorized representative of Xalyo.

1. PRODUCTS

1.1 “Products” shall mean any products or services identified on (a) any of Xalyo proposals, quotations or order acknowledgements, (b) current applicable price lists, (c) any of Xalyo invoices or (d) the document referencing this Agreement, in each case having the Xalyo specification applicable to the relevant product.

1.2 Alterations to any Product which Xalyo deems necessary to comply with specifications, changed safety standards or governmental regulations, to make a Product non-infringing with respect to any intellectual property or other proprietary interests, or to otherwise improve a Product may be made at any time by Xalyo without prior notice to, or consent of Buyer and such altered Product shall be deemed fully conforming.

2. BUSINESS PRINCIPLES

2.1 In all its business relationships, Xalyo holds to the principles of good faith and expects its customers and Buyers to reciprocate.

2.2 Ethical principles such as the individual rights of third parties, safeguarding human rights, the prohibition against child labor, protection of the environment, etc. are strictly observed by Xalyo.

3. OFFERS: Our offers and quotations are always without obligation. When offers stipulate no other expiry date Xalyo remains bound by its offer for a period of thirty days from the date of issue of such an offer. Offers and quotations submitted by Xalyo shall be confidential and may only be accessed by persons actually processing the said quotations.

4. ORDERS: Orders from the Buyer shall only become binding upon Xalyo’s written confirmation (including order acknowledgment, delivery note or invoice). Buyer shall purchase Products by issuing a written purchase order signed by an authorized representative, indicating specific Products, quantity, price, total purchase price, shipping instructions, requested delivery dates, bill-to and ship-to addresses and any other special instructions. All orders are subject to acceptance by Xalyo.

5. PRICES: All prices are (a) firm for thirty (30) days from the date of quotation, (b) EXW (Incoterms 2000) Xalyo (shipping costs and risk of loss from the EXW point are the responsibility of Buyer) and (c) exclusive of Taxes, custom fees, local VAT, and all handling or other charges including without limitation insurance, brokerage fees, transportation or special packaging (“Charges”). Title to Products (excluding services) shall pass from Xalyo to Buyer upon delivery at the EXW point. Any tax or other charge which Xalyo is liable to collect on behalf of any governmental authority as a result of the sale, use or delivery of Products, including without limitation, duties, value added and withholding taxes (“Taxes”), is the responsibility of the Buyer, and if paid by Xalyo shall be charged to Buyer as a separate item on the invoice, to the extent possible.

6. TERMS OF PAYMENT: Upon credit approval by Xalyo, payment terms shall be net thirty (30) days from the date of the invoice. Xalyo reserves the right to require alternative payment terms including, without limitation, letter of credit or payment in advance. If at any time Buyer is delinquent in the payment of any invoice or is otherwise in

breach of this Agreement, Xalyo may, at its discretion, stop performance of services or withhold shipment of Products (including partial shipments) of any order and may, at its option, require Buyer to pre-pay for further services or shipments. All payments not received when due shall be subject to an additional charge of one and a half percent (1.5%) per month (annual rate 19.56%) of the unpaid amount or the maximum rate permitted by law, whichever is less, until the date of payment. The entire consignment will remain Xalyo's property until full payment has been received.

All payments shall be sent through a cash wire to the bank account indicated on Xalyo invoices. Wire transfer fees are at the charge of the Buyer and should the Buyer deduct these fees from the total invoice amount, Xalyo reserves the right to separately invoice the Buyer for the transfer fees.

VISA and MASTERCARD Credit Cards are accepted upon written or verbal consent by Xalyo. The Credit Card information shall be provided to Xalyo by the Buyer prior to shipment of Products and the Credit Card will be debited by Xalyo on the day of the shipment.

Checks are not accepted.

7. PERFORMANCE AND SHIPPING: Performance and shipping dates specified or communicated by Xalyo to the Buyer are approximate dates only and the failure to perform or ship on such dates shall not be considered a breach by Xalyo, unless performance of services or shipment of Products does not occur within thirty (30) days following the dates first communicated by Xalyo and Xalyo and the Buyer have not agreed on alternative performance or shipment dates. Scheduled dates or terms of delivery will commence from the day the order has been accepted by Xalyo or all technical details have been settled, whichever occurs later, and, if agreed upon, when Xalyo is in receipt of a deposit or securities furnished by the Buyer. Delivery shall be deemed made upon transfer of possession at the EXW point. All claims for shortage of Products received versus Products ordered or for incorrect Charges or Taxes must be presented to Xalyo within ten (10) days after receipt by Buyer of the particular shipment of Products. Buyer shall be responsible for all Charges. Unless given written instruction, Xalyo shall select the carrier and insure the shipment at purchase order value. Xalyo shall not be liable for damages or penalty for delay in delivery after transfer of Products to the shipping carrier or for failure to give notice of any delay, and the carrier shall not be deemed to be an agent of Xalyo. Notwithstanding any provision of this Agreement, each Product shall be deemed accepted by Buyer upon delivery.

8. CANCELLATION: Unless Xalyo has failed to perform or ship Products as described at section 5 above, The Buyer may not cancel, terminate, suspend performance of, or issue a hold on any Buyer order, in whole or in part, without the prior written consent of Xalyo, which consent, if given, shall be upon terms that will compensate Xalyo for any loss or damage there from, including but not limited to any work in process or services performed, the price of Products shipped to, manufactured for, or held separately for the Buyer, any loss of profits, incurred costs, and a reasonable allocation of general and administrative expenses relating to the Products.

9. LIMITED PRODUCT WARRANTY: Notwithstanding any provision to the contrary (but subject to the operation of any law to the extent it cannot be excluded), Xalyo's sole and exclusive obligations to the Buyer for any Product made by Xalyo and sold hereunder are to repair returned Product (or provide a replacement Product at Xalyo's sole option) for any Product which has been returned to Xalyo under the RMA procedure (as defined below at section 8) and which, in the reasonable opinion of Xalyo, is determined to be defective in workmanship, material or not in compliance with the Xalyo specification applicable to the Product and has in fact failed under normal use on or before twelve (12) months from the date of original shipment of the Product. All Products, which are experimental Products, prototypes or Products used in field trials, are not warranted. All third parties' products (including software) sold by Xalyo carry only the original manufacturer's warranty applicable to Buyer. Any Product repaired or replaced under warranty is only warranted for the period of time remaining in the original warranty for the Product. Xalyo reserves the right, at its sole option, to issue a credit note for any defective Product as an alternative to repair or replace. The warranty provided herein shall apply to any Product which has proved defective and has failed through normal use but excludes and does not cover any Products or parts thereof which have been accidentally damaged, disassembled, modified, misused, used in applications which exceed the Product specifications or ratings, neglected, improperly installed or otherwise abused or are used in hazardous activities. Buyer must claim under the warranty in writing not later than thirty (30) days after the claimed defect is discovered. Xalyo warrants that services will be

performed in a good and workmanlike manner in accordance with standards reasonably applicable to the services. The Buyer must make all claims under these warranties and no claim will be accepted from any third party.

10. RETURN MATERIAL AUTHORIZATION PROCEDURES: Xalyo will only accept Products returned under the Xalyo Return Material Authorization process ("RMA"). Buyer shall obtain a RMA number from Xalyo prior to returning any Product and return the Product to Xalyo to the EXW point. Any Product which has been returned to Xalyo, but which is found to meet the applicable specification for the Product and not defective in workmanship and material shall be subject to Xalyo standard examination charge in effect at the time which shall be charged to the Buyer. Where any Product is returned without an itemized statement of claimed defects, Xalyo will not evaluate the Product but will return it to the Buyer at the Buyer's expense. The buyer pays transport and insurance cost for both shipments.

11. LIMITATION OF LIABILITY: EXCEPT FOR THE WARRANTIES STATED HEREIN FOR THE BUYER, NO WARRANTY, CONDITION OR REPRESENTATION, EXPRESS, IMPLIED, ORAL OR STATUTORY, IS PROVIDED TO THE BUYER OR ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION OR REPRESENTATION: (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE; (B) THAT THE PRODUCTS WILL BE FREE FROM INFRINGEMENT OR VIOLATION OF ANY RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS, OF THIRD PARTIES; OR (C) THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. THE BUYER'S SOLE AND EXCLUSIVE REMEDIES HEREUNDER AND THE ONLY LIABILITY OF XALYO IS EXPRESSLY LIMITED TO THE TERMS OF THE AGREEMENT. XALYO SHALL NOT BE LIABLE TO THE BUYER, OR ANY THIRD PARTY, FOR ANY OTHER SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT COSTS OR DAMAGES, INCLUDING WITHOUT LIMITATION, LITIGATION COSTS, INSTALLATION AND REMOVAL COSTS, LOSS OF DATA, PRODUCTION OR PROFIT LOSS ARISING FROM ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES. FOR PURPOSES OF THIS PROVISION, XALYO INCLUDES XALYO'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUBCONTRACTORS AND SUPPLIERS. IN NO EVENT SHALL THE TOTAL COLLECTIVE CUMULATIVE LIABILITY OF XALYO, ITS EMPLOYEES, OFFICERS, AGENTS AND DIRECTORS EXCEED THE AMOUNT PAID BY THE BUYER TO XALYO FOR PRODUCTS FROM WHICH SUCH LIABILITY AROSE DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE MOST RECENT CLAIM.

12. EXPORT RESTRICTIONS: Buyer shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. Buyer will indemnify and hold Xalyo harmless for any violation or alleged violation by Buyer of such laws, rules, policies or procedures. Buyer shall not transmit, export or re-export, directly or indirectly, separately or as part of any system, the Products or any technical data (including processes and services) received from Xalyo, without first obtaining any licence required by the applicable government. Buyer also certifies that none of the Products or technical data supplied by Xalyo under this Agreement will be sold or otherwise transferred to, or made available for use by or for any entity that is engaged in the design, development, production or use of anti-personnel landmines and nuclear, biological, chemical or any other mass destruction weapons.

13. CONFIDENTIALITY, RIGHTS IN INTELLECTUAL PROPERTY AND TOOLING: All right, title and interest in and to any inventions, discoveries, improvements, methods, ideas, computer and other apparatus programs and related documentation, other works of authorship fixed in any tangible medium of expression or other forms of intellectual property, whether or not subject to statutory protection, which are made, created, developed, written, conceived or first reduced to practice by Xalyo solely, jointly or on its behalf, in the course of, arising out of, or as a result of work performed under an order, and any related tooling, set-up, fitting-up and preparation charges whether or not invoiced, shall belong to and be the sole and exclusive property of Xalyo. Buyer agrees not to reverse engineer all or any portion of any Product nor allow or assist others to do so. Buyer agrees not to remove, alter, erase, deface or cover over any markings on the Product or its packaging.

Buyer shall hold confidential and shall not use, disclose or permit others to use any confidential information identified as such in writing or orally by Xalyo or information which Buyer knows or ought to reasonably know is confidential, proprietary or trade secret information of Xalyo, including, without limitation, trade secrets embodied in Products.

14. GENERAL TERMS:

14.1 This Agreement is governed and construed in accordance with Swiss law. The place of jurisdiction for all disputes arising in connection with this Agreement is Lausanne, Switzerland. Xalyo reserve the right to file an action against the Buyer at its place of residence and/or headquarters. The Parties specifically disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods (1980).

14.2 Xalyo shall not be liable for any delay or failure in performance whatsoever due to acts of God, earthquakes, shortage of supplies, transportation difficulties, labour disputes, riots, war, fire, explosion, epidemics, or other occurrences beyond Xalyo's reasonable control or due to unforeseen circumstances.

14.3 Waiver by Xalyo of any provision herein must be in writing and shall not be deemed to be a waiver of such provision in the future or of any other provision.

14.4 Neither this Agreement nor any rights under this Agreement, other than monies due or to become due, shall be assigned or otherwise transferred by Buyer (by operation of law or otherwise) without the prior written consent of Xalyo. This Agreement shall bind and inure to the benefit of the successors and permitted assigns of the parties.

14.5 In the event that any of the terms of this Agreement, apart from payment, becomes or is declared to be illegal by any court of competent jurisdiction, such term shall be null and void and shall be deemed deleted from this Agreement, but only to the extent that such term is illegal, it being the intent and agreement of the parties that the Agreement shall be deemed amended by modifying such term to the extent necessary to make it legal while preserving its intent or, if that is not possible, by substituting therefore another term that is legal and achieves the same objective. All remaining terms of this Agreement shall remain in full force and effect.

14.6 Neither Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Party or bind the other Party in any respect whatsoever.

14.7 Xalyo neither assumes nor authorizes any third party, person or entity to assume or accept any liability or obligation, or to make any commitment for Xalyo with regard to Xalyo services or the Products.

14.8 This Agreement constitutes the entire agreement between the Parties hereto concerning the subject matter of this Agreement, apart from existing non-disclosure agreements already signed by authorized representatives of Buyer and Xalyo, and there are no understandings, agreements, representations, conditions, warranties, or other terms, express or implied, which are not specified herein. This Agreement may only be modified by a written document executed by authorized representatives of Xalyo and Buyer.

14.10 Placing a purchase order with Xalyo automatically implies the acceptance of this Agreement by the Buyer.