



Document Title:
Terms and Conditions of Sale

Department / Process Owner
Contracts & Supply Chain

DOCUMENT NUMBER:
SC-443

REVISION:
A

REV DATE:
1/25/2025

APPROVAL:
G. Wingenbach

(1) Definitions

The following terms shall have the meanings as set forth below:

- “Seller” is defined as PLEXSYS Interface Products, Inc. or any of its Affiliates
- “Buyer” is defined as the Party with whom Seller is contracting.
- “Buyer” or “Seller” may be referred to individually as a “Party” and collectively as “the Parties”.
- “Products” means those goods, supplies, software licenses, Data, materials, articles, items, parts, components or assemblies, and any incidental Services described in this Order and made available for sale by PLEXSYS Interface Products, Inc or any of its Affiliates.
- “Services” is defined as those services available for sale by PLEXSYS Interface Products, Inc or any of its Affiliates and as described in this Order.
- “Order” is defined as the Contract, Subcontract, Delivery Order, Purchase Order, Purchase Contract, Work Order, Blanket Purchase Order, Sales Order or any other Buyer-authorized procurement document between the Buyer and Seller for the Products and/or Services outlined herein or in the Seller’s Statement of Work.

(2) Delivery

Delivery shall be made in accordance with the delivery requirements and schedule identified in the Order. Early deliveries and/or partial deliveries of all Products are permitted without approval from the Buyer. All Services performed under this Order shall be deemed delivered upon performance. If, for reasons beyond its reasonable control, Seller cannot make shipment or Buyer is not prepared to receive the shipment, Seller may, at its option, deliver the Products to storage at Buyer’s risk and expense, including but not limited to demurrage, storage charges, and insurance. Goods shall be delivered F.O.B. ORIGIN.

(3) Taxes

Prices stated do not include local, state, federal taxes, or any other taxes. The amount of any sales, use or similar tax applicable to the sale of the Products and/or Services herein shall be paid by the Buyer, or in lieu thereof, the Buyer will provide Seller with a tax exemption certificate acceptable to the taxing authorities.

(4) Invoicing and Payment Terms

All payments shall be in U.S. Dollars. Buyer shall make payment in full for the Products and/or Services furnished under this Order within thirty (30) days from the date of receipt of Seller’s invoice(s). Invoices not paid within the time specified shall be subject to a late charge and shall incur interest calculated at the rate of 1.5% of overdue amounts per month calculated daily and compounded monthly. However, when the due date falls on a Saturday, Sunday, or legal holiday, the Buyer may make payment on the following working day without incurring a late payment interest penalty. Payment of the Products and/or Services provided hereunder, or any portion thereof, shall constitute acceptance. Buyer will not setoff or recoup invoiced amounts, or any portion thereof, against sums that are due, or may become due, from Seller.

(5) Changes

Upon mutual, written agreement of the Parties, the Buyer may request changes within the general scope of this Order. If any such changes cause an increase or decrease in the price of the Goods and/or Services, Seller shall notify Buyer to this effect, and an equitable adjustment shall be made to the price and/or delivery schedule and/or any other terms of the Order affected by the Change. If the Buyer requests a change that causes an increase or decrease in price, Seller shall not be obligated to proceed with such changes until it receives a formal change to the Order. Seller shall be entitled to an extension of the delivery schedule and equitable adjustment as a result of such change(s).

Should Seller receive a verbal or written change notification from an employee of Buyer (other than Buyer’s Authorized Procurement Representative), which would affect any of the terms, conditions, cost, quantities, schedules, etc., of this Order, Seller will notify Buyer’s Authorized Procurement Representative. No work or any changes will take place in response to such a notification, unless and until a formal modification has been mutually agreed and issued.

(6) Title and Risk of Loss

Title to any Products and/or Services to be furnished under this Order shall transfer to the Buyer upon receipt of Products or Services by Seller, unless otherwise agreed in writing by both Parties. At such time, the Products and/or Services shall become the Buyer’s property, not inclusive of ownership rights. Intellectual Property Ownership remains with the



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Buyer and Intellectual Property is addressed in Article 20 herein. The risk of loss will pass to the Buyer immediately upon delivery of any equipment or material to the Buyer.

(7) Packing

Unless otherwise specified, Seller will provide commercially reasonable packing in accordance with good commercial practice (i) to assure safe arrival at destination; (ii) for storage and for protection against the elements and transportation, (iii) to comply with carrier regulations appropriate to the method of shipment used, and (iv) to secure the lowest transportation cost. Any special packing requested by Buyer will be charged to the Buyer, and Seller shall be considered to be acting as Buyer's agent without liability.

(8) Force Majeure

Seller will exercise every reasonable care to meet the expected shipment date or dates shown in this Order; however, Seller shall not be liable for loss or damage due to delays resulting from causes beyond its reasonable control, including without limitation compliance with any Government law or regulation, acts of God, acts or omissions of the Buyer, fires, strikes, floods, weather, disputes with workmen, embargoes, wars, riots, epidemics, quarantine restrictions, delays or shortages in transportation, production or engineering delays or inability of Seller or its vendors to secure adequate materials, manufacturing facilities or labor on schedule. Any such cause shall result in an equitable adjustment in delivery dates and, in the case of delay caused by acts or omissions of the Buyer, will entitle the Seller to an increase in the price of the Order and/or damages.

(9) Confidentiality/ Proprietary Information

- a. These terms and conditions of sale do not supersede any Confidentiality Agreement executed by Buyer and Seller that otherwise applies to Products, Services, technical data or other information delivered in connection with an Order.
- b. In the absence of such agreement, Seller and Buyer agree to keep confidential all information designated in writing or marked as proprietary or confidential ("Confidential Information"). Seller and Buyer shall use Confidential Information of the other Party only for purposes of this Order and shall not copy or disclose such Confidential Information

to any third party, without the other Party's prior written consent, other than to each other's employees and Seller's agents, consultants, subcontractors, parent and subsidiary companies on a need-to-know basis. Seller and Buyer agree to take measures to protect the confidentiality of the other Party's Confidential Information that, in the aggregate, are no less protective than those measures it uses to protect the confidentiality of its own Confidential Information. Seller and Buyer shall, upon completion of the Order and upon written request, at the other Party's option, either return to the Party or destroy and certify in writing to that Party the destruction of any and all documents and materials in its possession to the extent that they contain Confidential Information. The obligations under this paragraph shall survive the expiration or termination of this Order.

- c. Buyer acknowledges and agrees that all data and information used, generated, provided or otherwise relating to Seller's Products are proprietary to Seller and shall remain exclusive property of the Seller. Buyer agrees (i) to keep in confidence all data and Information received (directly or indirectly) from Seller (whether or not) marked proprietary; (ii) not to divulge such data or information to any person, firm, or other entity other than those who have a need to know in direct connection with work under this Order, and (iii) not to use such data and information for any purpose other than fulfilling Buyer's obligations under this Order. In the event Buyer deems it necessary to release any Seller data or information to any third party for necessary work directly in connection with this Order or the Products and Services purchased under this Order, the Buyer shall obtain the Seller's prior written consent to release such data. Buyer further agrees to abide by written instructions of Seller concerning any other disclosure of such data and information. Final disposition of such data and information shall be as directed in writing by Seller.

(10) Indemnification / Liability to Third Parties

Seller shall defend, indemnify and hold harmless Buyer from damages, costs and expenses arising under this Order which are attributable to bodily injury (including death) and property damage resulting from the negligence of Seller. Buyer shall defend, indemnify and hold harmless Seller from



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damages, costs and expenses arising under this Order which are attributable to bodily injury (including death) and property damage resulting from the negligence of Buyer. In the case where both Parties are negligent, each Party shall defend, indemnify and hold harmless the other to the extent of each Party's negligence.

(11) Limitation of Liability

EXCEPT FOR LIABILITY ARISING FROM A BREACH OF ARTICLES 9 OR 20 (CONFIDENTIALITY/ PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY/ RIGHTS IN DATA / SOFTWARE LICENSE), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL (INCLUDING MULTIPLE OR PUNITIVE) OR OTHER INDIRECT DAMAGES THAT ARE CLAIMED TO BE INCURRED BY THE OTHER PARTY WHETHER SUCH CLAIM ARISES UNDER CONTRACT, TORT (INCLUDING STRICT LIABILITY) OR OTHER THEORY OF LAW.

SELLER'S SOLE LIABILITY IS LIMITED TO ANY DEFECTS IN WORKMANSHIP DESCRIBED IN ARTICLE 18 HEREIN. THE SELLER'S MAXIMUM LIABILITY SHALL NOT EXCEED THE AMOUNT PAID TO SELLER UNDER THIS ORDER THAT GIVES RISE TO THE CLAIM.

(12) Dispute

Any controversy, dispute or claim arising under, out of, or in connection with this Order that is not settled by agreement of the Parties through good faith negotiations shall be resolved exclusively by a competent court located in the state of Washington. Pending any decision, appeal, or judgment, or the settlement of any such dispute arising under, out of, or in connection with this Order (except with respect to any cancellation or termination of Order), each Party shall proceed diligently with the performance of this Order.

(13) Applicable Law

This Order and any deliveries made pursuant to the terms of this Order shall be governed by the Laws of the state of Washington, United States of America, excluding conflict of law provisions. This Order shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods or by the Uniform Computer Information

Transactions Act or any version thereof adopted by any state in any form ("UCITA"). To the extent that UCITA is otherwise applicable, the Parties agree to opt out of the applicability of UCITA pursuant to the opt-out provisions contained therein.

(14) Buyer Termination

- a. In the event that the Buyer's contract with its customer is terminated for convenience, Buyer may terminate all or part of the Statement of Work prior to its completion. Such terminated work shall be deemed to have been completed to the extent of the state of progress which the Seller had reached as of the date of termination, and Buyer shall pay termination costs determined in accordance with the Seller's standard accounting practices upon submission of Seller's invoices. Termination charges may include, but are not limited to, the cost for all work performed and accepted and all costs incurred plus fees earned prior to such termination, including outstanding obligations for which firm commitments are made to close out the Order.
- b. Except as specifically agreed in writing, termination shall not relieve either Party of any obligation arising out of work performed prior to termination.
- c. If the Seller fails to perform any of its material Order obligations, Buyer may give written notice clearly specifying the nature of the failure to perform to Seller, and Seller shall cure such default or commence an appropriate cure of such default within 30 days after receipt of such notice. If Seller does not cure or commence a cure acceptable to Buyer within 30 days, Buyer may then terminate Seller's performance hereunder. Seller shall cooperate with Buyer with regard to closing out the Order.

(15) Inspection of Seller's Financial Records

Notwithstanding any other provision in this Order, Buyer shall not have the right to review any of Seller's financial information, including but not limited to Seller's books and records.

(16) Assignment

This Order shall not be assigned in whole or in part by either Party without the written consent of the other Party, except that, without securing such prior consent, the Seller shall have the right to assign this Order to any successor of such Party by way of



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merger or other corporate reorganization or the acquisition of substantially all of the entire assets of such Party relating to the subject matter of this Order.

(17) Inspection and Acceptance

- a. Inspection of products will be performed at Seller's facilities. Such inspection will be according to Seller specification and procedures at the time and shall be conclusive that the items meet the requirements of the Order.
- b. Products, including software, will not undergo any Factory Acceptance Tests and will be deemed accepted at delivery.
- c. Services and Documentation are deemed accepted at delivery.

(18) Warranty

- a. Media and Software Warranty Period
This agreement hereby incorporates the media and software warranty listed in Article 5 of the Software License Agreement.
- b. Other Warranty
 - i. Seller warrants that the Services will be performed by competent personnel with pertinent experience in the field of effort.
 - ii. With respect to any products not manufactured by Seller, Seller gives no warranty, and only the warranty, if any, given by the manufacturer of such Product shall apply.
- c. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. NO EXTENSION OF THIS WARRANTY SHALL BE BINDING UPON SELLER UNLESS SET FORTH IN WRITING AND SIGNED BY SELLER'S AUTHORIZED REPRESENTATIVE.

- d. The remedies described in this Article 18 state Seller's entire liability and Buyer's sole and exclusive remedies with regard to any defect in materials and/or workmanship with the Sellers products delivered under this Order.

(19) Export/Import

- a. Shipment of Sellers' products and/or services outside of the United States is predicated upon obtaining a validated export license from the U.S. Department of State for United States Munitions List (USML) equipment or from the U. S. Department of Commerce for commercial equipment.
- b. The Buyer represents and warrants that neither it nor any Party acting on its behalf in any manner will export, either directly or indirectly, the Product, product documentation or any system incorporating such product or product documentation in violation of the International Traffic in Arms Regulation and the Export Administration Regulations. The Buyer further represents and warrants that technical data furnished to it by Seller shall only be exported from the United States in compliance with the International Traffic in Arms Regulations and the Export Administration Regulations, including the requirement for obtaining any export license, if applicable.
- c. Unless otherwise stated herein, it shall be Seller's responsibility to obtain the necessary US Government export license for delivery to Buyer. Notwithstanding the above, it shall be Buyer's responsibility to obtain any required permission from its Government to import the items under this Order.
- d. The Buyer shall immediately provide assistance to Seller, as necessary, including, but not limited to executing a Non-transfer and Use Certificate and an End-User Certificate.
- e. Should any required approvals from the U.S. Government not be obtained, the Parties shall consider such an event as a Force Majeure and this Order shall be terminated. In the event of such termination, termination shall be deemed to have been completed to the extent of the state of progress which the Seller had reached as of



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the date of termination, and Buyer shall pay termination costs determined in accordance with the Seller's standard accounting practices upon submission of Seller's invoices. Termination charges may include, but are not limited to, the cost for all work performed and accepted and all costs incurred plus fees earned prior to such termination, including outstanding obligations for which firm commitments are made to close out the Order.

- f. The Buyer shall be responsible for clearing all items through its local customs and for all subsequent permits required by any entity in such country to transport, install, commission and operate the deliverable items.

(20) Intellectual Property / Rights in Data / Software License

- a. Seller, on behalf of itself and its suppliers, retains ownership of all right, title and interest to all intellectual property rights in the Products, Services and Documents that it owns as of the date of this Order, in the Products, Services and Documents supplied under this Order, and all intellectual property rights first made or conceived by Seller in the performance of this Order, including without limitation all copyright, patent, trademark, trade name, mask work or other intellectual property rights. Other than as granted in 20(b) below, this Order does not convey to Buyer any license or title to design ideas, inventions, patents or other intellectual property rights, or to subsequent development of and improvements to such design ideas, inventions, patents or rights first made or conceived in the performance of this Order.
- b. Software License. The Software License shall be in accordance with the Seller's License Agreement attached to the Order and End User Software License Agreement. If the Order is for a revocable term subscription license, the Software License is issued on the delivery date in the Order and terminates on the date through which the revocable term subscription license has been paid, after which the Software License expires unless it is renewed. If the Order is for an irrevocable, perpetual Software License, then the Software License is granted in perpetuity to the Contractor for the sole use described in the contract including ability to sublicense and may not be assigned or sublicensed for any other purpose.

(21) Buyer's Responsibilities / Seller's Termination

- a. Buyer will perform its obligations under this Order at the times and in the manner prescribed in the Order or, if not prescribed herein, at reasonable times and in a reasonable manner. If the Buyer fails to meet its obligations or otherwise prevents Seller's performance of its obligations, Seller shall be entitled to an equitable adjustment in the price, schedule, and/or other terms of this Order. If Buyer fails to perform an obligation and does not cure such failure within thirty (30) days after receipt of notice of such failure from Seller, then the Seller has the right to terminate the Order. Buyer shall pay termination costs determined in accordance with the Seller's standard accounting practices upon submission of Seller's invoices. Termination charges may include, but are not limited to, the cost for all work performed and accepted and all costs incurred plus fees earned prior to such termination, including outstanding obligations for which firm commitments are made to close out the Order.
- b. In addition to the foregoing general obligations, Buyer shall also have the following specific obligations:
- Buyer shall assist Seller in obtaining necessary work permits, and entry or resident visas for Buyer and its Seller's personnel, and to the extent required, serve as Seller's sponsor for this purpose.
 - Buyer will provide Seller with reasonable access to Buyer's installation sites and other necessary work sites.
 - In the event this Order requires the delivery of Buyer furnished equipment, it shall be delivered as detailed in the Statement of Work on the dates set forth therein.

(22) Notices

- a. Every notice between the Parties relating to an Order will be made in writing and, if to Buyer, to Buyer's authorized representative or, if to PLEXSYS Interface Products, Inc., to PLEXSYS Interface Products, Inc.'s authorized representative. The Buyer's representative shall have authority to act for Buyer in all matters concerning this Order.
- b. Notices will be deemed effective as of the



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date and time of actual receipt. All notices must be addressed as follows:

- i. To PLEXSYS Interface Products, Inc.,
Attention Contracts, 4900 NW Camas
Meadows Drive, Camas, Washington
98607-7684, United States
- ii. To Buyer: Address on Buyer's
address on the Order or to Buyer's
purchasing representative

- iii. The PLEXSYS End-User Software
License Agreement
- iv. Buyer's Purchase Order

(23) Severability

If any Section of this Order shall be held illegal or unenforceable, that Section shall be limited or eliminated to the minimum extent necessary so that this Order shall otherwise remain in full force and effect and be fully enforceable. The Parties in such a case shall negotiate a substitute Section compliant with law and enforceable to carry out the intent of the eliminated Section.

(24) Effective Date

This Order shall become binding as of the date of the last of the following events, all of which must occur. This date shall be the "Effective Date of the Order:"

- i. Execution of the Order by both Parties
- ii. Receipt of all appropriate Export Licenses;
and
- iii. Completion of all required Financial
Arrangements, as deemed necessary by
Seller.

(25) Entire Agreement

This writing contains the entire agreement of the Parties on the subject matter hereof, and no modification, amendment, rescission, waiver, or other change shall be binding on Seller unless assented to in writing by Seller. Any representation, warranty, course of dealing, or trade usage not contained or referenced herein shall not be binding on Seller. The provisions of this Order are for the benefit of the Parties hereto and not for any other person or entity except as specifically provided herein.

(26) Order of Precedence

To the extent of any inconsistencies between these Terms and Conditions of Sale and the Buyer's Order, the following order of precedence shall prevail in descending order:

- i. These Terms and Conditions
- ii. The PLEXSYS License Agreement