

PinPoint Testing LLC Terms and Conditions of Sale – Products and Services

1. GENERAL. This quotation (the “Quotation”) issued by, and orders accepted by, PinPoint Testing LLC (“Seller”) for purchase by the buyer specified in the Quotation (“Buyer”) of the products and services listed therein (“Products” and “Services”) shall be subject to and governed by these Terms and Conditions. Any terms contained or referenced in Buyer’s purchase order or other document issued by Buyer shall be non-binding and of no effect. The Quotation and these Terms and Conditions together represent a binding agreement between Buyer and Seller (collectively, the “Order”).

2. SHIPMENT, RESCHEDULING AND CANCELLATION. Shipping and delivery dates in the Quotation are estimates only. Seller shall attempt to comply with, but will not guarantee, shipping dates and loading and routing instructions. Seller reserves the right to allow or prorate shipments against all orders whenever, in its judgment, an oversold condition exists as to any particular Product. In the event of a breach by Buyer of the Order, Seller may decline to make further shipments without waiving any of its rights. If, despite such breach, Seller elects to continue to make shipment, such action shall not constitute a waiver regarding, or otherwise diminish, Seller’s legal rights or remedies with respect to Buyer breach. This Order may not be cancelled or rescheduled.

3. TITLE AND DELIVERY. Unless otherwise set forth in the Quotation, all Products will be shipped EXW factory (Incoterms 2020), and Buyer shall pay all freight, duties, cartage and handling. Except in relation to software as described in Section 4 below, title and risk of loss or damage of Products shall pass from Seller to Buyer in accordance with such shipping terms. All claims by Buyer for damages to Products must be filed with the carrier.

4. SOFTWARE. Buyer agrees that software provided by Seller under an Order is licensed, not sold, by Seller to Buyer. Seller retains all ownership, title, and interest in the software. Seller grants to Buyer a paid-up, non-exclusive, non-transferable license to use the software in combination with the Products purchased hereunder, or on a standalone basis if so permitted in the Quotation. Buyer agrees to maintain confidentiality of such software and shall not transfer, assign, sublicense, license, or otherwise make such software available to any third party, copy, modify, reverse-engineer, decompile, or create derivative works of such software. The software license shall terminate when the license term as set forth in the Quotation terminates or when Buyer’s ownership of the equipment on which the software is installed terminates, as applicable, unless earlier terminated as set forth below. Upon termination of the software license, Buyer shall cease use of (and destroy, or return to Seller as applicable) all software and related documentation.

5. SERVICES. Delivery, performance and completion of Services by Seller are dependent on Buyer’s assistance, participation and involvement. In order for Seller to meet any Services performance or completion dates specified in the Quotation, Buyer must in a timely manner provide to Seller all documents, information and materials, and access to Buyer personnel and facilities that are applicable to the Order. Any delivery or completion times or dates which Seller has indicated for the Services are only approximate. Services shall be deemed accepted as completed.

Buyer shall ensure that Seller’s performance of Services can start immediately upon arrival of Seller’s representatives at Buyer’s facilities. Buyer shall assist Seller’s representatives and provide technical assistance as requested by Seller. In particular, Buyer shall provide the required qualified personnel who shall cooperate with and follow the instructions of Seller’s representatives. Except to the extent the Quotation specifies that Seller will provide certain supplies for performance of the Services, Buyer shall provide all necessary equipment and tools (e.g., lifting appliances), commodities, materials, substances, water, gas, heating, electric power, air conditioning, operating power, and required connections. Buyer is responsible for performing all backups of Buyer data prior to the start of the performance of Services. Buyer shall dispose of all materials (e.g., packaging) and waste resulting from the provision of the Services at Buyer’s expense. If Buyer fails to fulfill its obligations as set forth in this Section 5, Seller shall be entitled to delay commencement or performance of the Services until such obligations are fulfilled, or Seller can elect to undertake Buyer’s obligations at Buyer’s expense. However, Seller shall not be obligated to do so.

In addition to the above, Buyer shall inform Seller of any safety, health and environmental risks and regulations applicable to Buyer’s site where the Services will be performed. Buyer shall comply with all applicable laws, legislation, regulations and ordinances in connection with the use and handling of the Services, including, but not limited to, pharmaceutical, cosmetic and food preparation, electrical or electronic waste and introduction or production and use of chemical substances. Buyer shall maintain in effect all licenses, permissions, authorizations, consents and permits applicable to Buyer’s facility and the performance and use of the Services.

Seller shall not be liable for any delays in the provision or completion of Services in the event and to the extent such delay results from acts or omissions of Buyer; an unusually long processing time for any necessary permit, license or other authorization required to be obtained from a governmental authority; or factors beyond Seller’s reasonable control. To the extent the Quotation requires Seller to obtain applicable licenses and permits, Seller is only responsible for ensuring that

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Seller submits the relevant applications to the applicable authority in a timely manner and regularly monitors such applications. Buyer shall provide Seller with reasonably requested assistance in such licensing and permitting process.

6. INTELLECTUAL PROPERTY; CONFIDENTIAL INFORMATION. Nothing in these Terms and Conditions shall be deemed to transfer any intellectual property rights from Buyer to Seller and vice versa. Each party shall retain all rights, title and interest in its own intellectual property and all modifications, updates, upgrades, enhancements and derivatives thereof. Seller will not develop any intellectual property or create works for hire for Buyer. Seller retains ownership of all rights, interest and title to intellectual property in all manuals, illustrations, drawings, designs, specifications, and other documentation provided by Seller to Buyer. All of such information and materials, as well as Seller's pricing, quotes and proposals, are the confidential information of Seller and shall not be disclosed by Buyer to any third party or used by Buyer for any purpose other than in connection with operation of the Products and use of the Services.

7. PRICES. Fees owed by Buyer for the Products and Services are specified on the Quotation. Such fees do not include anything not expressly listed in the Quotation, including without limitation installation of utilities required for Products. Fees in the Quotation apply solely to this Order and only if Buyer purchases before the end of the Quotation validity period. Seller is entitled to change the prices for Products and Services as stated in its price list at any time at Seller's own discretion.

8. PAYMENT TERMS.

(a) Unless otherwise set forth in a Quotation, payment terms are net thirty (30) days from the date of the invoice. Payments shall be made in U.S. Dollars unless the Quotation states otherwise. Any currency exchange charges, any charges for nonpar clearance of checks or collection charges (including reasonable attorneys' fees), and fees imposed by Buyer's bank or due to Buyer's payment mechanism will be paid by Buyer. Any amounts not paid when due will bear interest at a rate of 18% per annum or, if lower, the maximum rate permissible by applicable law. Buyer shall be responsible for and reimburse Seller for any costs and expenses incurred by Seller to collect past due amounts owed by Buyer. Seller may immediately suspend or terminate an Order if Buyer fails to issue payment in full by the due date.

(b) The Order is subject to credit approval by Seller. The amount of any credit extended by Seller to Buyer may be changed at any time by Seller, and such credit may be withdrawn by Seller. With respect to an Order on which credit is not extended by Seller or, if extended, is subsequently withdrawn, shipment or delivery shall be made, at Seller's election, cash with order (in whole or in part), C.O.D., letter of credit or Sight Draft attached to Bill of Lading or other shipping documents, with all costs of collection (plus 18% interest on Sight Drafts not paid at maturity) for the account of Buyer. If, in the judgment of Seller, the financial condition of Buyer does not justify continuation of production or shipment on the terms of payment originally specified, Seller may require full or partial payment in advance. In the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, Seller shall be entitled, in addition to any other remedies at law or in equity, to (i) stop or divert any shipment in transit, (ii) cancel any order then outstanding and/or (iii) receive reimbursement for its cancellation charges.

(c) Each shipment shall be considered a separate independent transaction, and payment therefor shall be made accordingly, unless otherwise set forth in the Quotation. If for any reason Buyer is not prepared to accept delivery of Product(s), Seller may store the Product(s) at Buyer's expense and risk in the name of Buyer, and such storage shall constitute shipment and delivery to Buyer.

9. TAXES. Prices do not include federal, state or local excise, sales, use, value added or similar taxes. Accordingly, in addition to the prices specified on the Quotation, the amount of any applicable taxes will appear as separate items on the invoice and will be paid by Buyer unless prior to shipment Seller receives an appropriate tax exemption certificate from Buyer.

10. ACCEPTANCE. Except as provided in the Quotation, Seller's standard commercial factory acceptance test(s) performed at Seller's factory will comprise acceptance for any Product sold by Seller, and no other acceptance procedures or criteria will apply. If the Quotation references customer specific acceptance ("CSA") provisions, then Buyer will accept the purchased Product in accordance with such CSA provisions. The parties will give priority to achieving CSA and the purchased Product shall not be used by Buyer for material production, for development of new processes or for any purposes other than achieving CSA, prior to successful completion or waiver of the CSA provisions. Any such use of the Product prior to successful completion of the CSA provisions shall be deemed to constitute CSA by Buyer. It is the responsibility of the Buyer to ensure that all the required facilities are ready and site preparation is completed for successful commencement of CSA on delivery of the Product. If CSA has not been commenced within thirty (30) days after delivery of the Product and completed within sixty (60) days after delivery (through no fault of Seller), the Product shall be deemed accepted as having achieved CSA. Services shall be deemed accepted when completed, which in the case of some Services will be reflected in the execution of a Service report by Buyer.

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11. FORCE MAJEURE. Seller shall not be liable for failure to perform this Order or any aspects thereof where occasioned by strikes, lockouts, labor difficulties, riots, inability or difficulty in obtaining or procuring supplies, labor or transportation, fires, storms, floods, epidemics, pandemics, earthquakes, explosions, accidents, acts of God, interference by civil or military authorities, whether legal or de facto, acts of the public enemy, war, rebellion, insurrection, sabotage, embargoes, orders given priority by any public authority or any other cause beyond the reasonable control of Seller.

12. INDEMNIFICATION. In the event of any action (and all prior related claims) brought against Buyer by a third party based on a claim that any Products provided by Seller to Buyer under the Order infringe any valid U.S. patent, copyright or trade secret, Seller shall defend such action at Seller's expense and pay all costs and damages finally awarded in such action or settlement which are attributable to such claim. Notwithstanding anything to the contrary contained herein, Seller shall not have any liability to Buyer to the extent that any infringement or claim thereof is based upon (i) use of a Product in combination with equipment or software not supplied by Seller, (ii) compliance with Buyer's designs, specifications or instructions, (iii) use of a Product in an application or environment for which it was not designed or (iv) modifications of a Product by anyone other than Seller without Seller's prior written approval. In the event of actual or potential infringement by the Product, Seller may, at its discretion and its own expense, (a) procure for Buyer the right, at no additional expense to Buyer, to continue using the Product; (b) replace or modify the Product so that it becomes non-infringing, provided the modification or replacement does not materially adversely affect the specifications of the Product; or (c) in the event (a) and (b) are not practical as determined by Seller, refund to Buyer the amortized amounts paid by Buyer with respect thereto, based on a five (5) year amortization schedule. THE FOREGOING INDEMNIFICATION PROVISION STATES SELLER'S ENTIRE LIABILITY AND BUYER'S SOLE REMEDY WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS. In addition to the foregoing intellectual property infringement indemnity, Seller shall at its cost defend and hold harmless Buyer against all third party bodily injury, death and tangible property damage claims, made against Buyer to the extent caused by the negligence or willful misconduct of Seller in the delivery of this Order and will pay all costs and damages (including reasonable attorneys' fees) finally awarded or settled in such claim. With respect to the claims described above in this Section 12, Buyer shall provide prompt written notice to Seller of any such claims. Seller shall have the right to assume sole control of the defense of any such claims and all negotiations for their settlement or compromise and. Buyer shall cooperate fully with Seller in the defense, settlement or compromise of same.

13. ASSIGNMENT. Buyer shall not assign this Order or any portion thereof without the prior signed written consent of Seller.

14. LIMITED WARRANTY AND DISCLAIMER. In lieu of any other warranty, Seller warrants that (i) the Products will operate substantially in conformance with Seller's published specifications as set forth in Seller's standard published Product documentation, specifications or inserts ("Documentation") and be free from defects in material and workmanship, when subjected to normal, proper and intended usage by properly trained personnel, for the period of time set forth in the Documentation, and (ii) Seller shall retain qualified personnel to perform the Services in a professional and workmanlike manner. If a period of time is not specified in the Documentation, the warranty period shall be one (1) year from the date of shipment to Buyer for equipment; ninety (90) days from the date of shipment for spare parts and software; and ninety (90) days from the date of delivery for Services (the "Warranty Period"). If notified by Buyer in writing during the Warranty Period of a Product or Services warranty claim, Seller shall (i) repair or replace, at Seller's option, defective Products so as to cause the same to operate in substantial conformance with the Documentation and/or (ii) re-perform Services such that they comply with the limited warranty set forth herein. THE OBLIGATIONS CREATED BY THIS WARRANTY STATEMENT TO REPAIR OR REPLACE DEFECTIVE PRODUCTS, SPARE PARTS, SOFTWARE AND/OR REPERFORM SERVICES SHALL BE THE SOLE REMEDY OF BUYER IN THE EVENT OF DEFECTIVE PRODUCTS, SPARE PARTS, SOFTWARE OR SERVICES THAT FAIL TO COMPLY WITH THE LIMITED WARRANTY SET FORTH HEREIN. EXCEPT AS EXPRESSLY PROVIDED IN THIS WARRANTY STATEMENT, SELLER DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCTS, SPARE PARTS, SOFTWARE AND SERVICES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE AND NON-INFRINGEMENT. WARRANTIES EXTEND ONLY TO THE ORIGINAL PURCHASER AND ARE NOT ASSIGNABLE OR OTHERWISE TRANSFERABLE. ANY ASSIGNMENT OR TRANSFER BY BUYER SHALL BE NULL AND VOID. In no event shall Seller have any obligation to make repairs, replacements or corrections required, in whole or in part, as the result of (i) normal wear and tear, (ii) accident, disaster or event outside of Seller's control, such as a force majeure event, (iii) misuse, fault or negligence of or by Buyer, (iv) use of the Products in a manner for which they were not designed or intended based on the Documentation, (v) causes external to the Products such as, but not limited to, power failure or electrical power surges, (vi) improper operation, maintenance, storage, moving, relocation, alteration and handling of the Products, or (vii) use of Products in combination with equipment or software not supplied by Seller. Any installation, maintenance, repair, service, relocation or alteration to or of, or other tampering with, the Products or Software performed by any person or entity other than Seller without Seller's prior written approval, or any use

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of replacement parts not supplied by Seller, shall immediately void and cancel all warranties with respect to the affected Products. In addition, the following items are excluded from the above warranty, are not warranted, and are provided as is, where is, without any warranty, express and implied: expendable or consumable items, including, but not limited to, filters, lamps, pilot lights, filaments, fuses, mechanical pump belts, probes, V-belts, wafer transport belts, pump fluids, O-rings and seals; used equipment, including demo equipment regular maintenance; and standalone computer and data storage equipment not manufactured by Seller (such as computers, monitors, printers and printer buffers) and any other third party products (which will carry only the original manufacturer warranty).

These warranties may not be extended or altered on Seller's behalf without the prior signed written authorization of Seller.

15. NO CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY. IN LIEU OF ANY OTHER PROVISION TO THE CONTRARY, THE PARTIES AGREE THAT (i) THE TOTAL AGGREGATE LIABILITY OF SELLER UNDER OR IN RELATION TO THIS ORDER, REGARDLESS OF THE BASIS OF THE CLAIM, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL PURCHASE PRICE PAID BY BUYER TO SELLER DURING THE PRECEDING TWELVE (12) MONTH PERIOD UNDER THE APPLICABLE QUOTATION FOR THE PRODUCTS OR SERVICES GIVING RISE TO SUCH LIABILITY, AND (ii) SELLER WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF REVENUE, LOSS OF DATA, LOSS OF PROFITS, LOSS OF GOODWILL OR OTHERWISE), REGARDLESS OF (A) WHETHER OR NOT THE SELLER HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, (B) WHETHER SUCH DAMAGES WERE FORESEEABLE, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

16. NONSOLICITATION. During the term of performance of Services and for a period of one (1) year thereafter, Buyer will not solicit, engage or hire, directly or indirectly, any employee of Seller who provides Services to Buyer. The foregoing restriction does not prevent Buyer from hiring an employee of Seller who has responded to a general advertisement for employment issued by Buyer that does not target such employee.

17. COMPLIANCE WITH LAWS; EXPORT CONTROL.

Buyer and Seller will comply with all laws and regulations applicable to their performance of this Order.

(a) Export Control. Buyer understands that exports and re-exports of Products and any related software, service, technical assistance, training and related technical data, and any media in which any of the foregoing is contained (the "Items") are subject to U.S. and foreign trade controls, customs, anti-boycott and economic sanctions laws, regulations, rules and orders (the "Export Laws"). In addition to any other remedy it may have, Seller may suspend or cancel the export, delivery, installation, or any maintenance or repair service of any Item if (i) Seller has not received all export-related documentation requested by Seller, including end-user certificates, (ii) Seller has not received the governmental approvals that Seller deems to be required, or (iii) Seller believes that such activity may violate any Export Laws or Seller's own compliance policies. Buyer shall not export, re-export or otherwise transfer or provide any Item in contravention of any Export Law or any end-user certificate provided by Buyer, including to an embargoed or otherwise sanctioned country, to anyone listed on any prohibited persons list published by the U.S., the UN, the EU or the OSCE, or for a prohibited end-use (such as research on or development of chemical, biological, or nuclear weapons, unmanned air vehicles or missiles, or nuclear explosive or fuel cycle activities). Buyer must notify Seller before providing any technical data to Seller that is controlled under any Export Law. Seller will not be liable to Buyer for any loss or expense if Buyer fails to comply with any Export Law. Buyer will indemnify, defend and hold harmless Seller from all claims, damages, fines, penalties, liability losses, costs and expenses made against or incurred by Seller arising from Buyer's breach of Export Laws.

(b) Imports. Buyer will comply with all applicable import laws or other restrictions or conditions respecting the import of Items that are now in effect or are hereafter imposed by any government or other applicable jurisdiction. Buyer shall be responsible for obtaining any necessary import permit, license or authorization at its sole cost and expense. Buyer shall immediately notify Seller if an import permit, license or other authorization is required in connection with any such import.

(d) DISCLAIMER AND INDEMNITY. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BUYER HEREBY DISCLAIMS AND BUYER HEREBY UNCONDITIONALLY WAIVES AND RELEASES ANY AND ALL ACTUAL OR POTENTIAL RIGHTS BUYER MIGHT HAVE AGAINST SELLER OR ANY PERSON DIRECTLY OR INDIRECTLY

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CONTROLLING SELLER REGARDING ANY FORM OF WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR TYPE, IN THE EVENT OF, OR ARISING FROM, ANY TRADE CONTROL IMPEDIMENT OR ANY RELATED DETERMINATION, ACTION, OR OMISSION OF SELLER DESCRIBED ABOVE. Buyer shall indemnify, defend, and hold harmless Seller against any and all liability, losses, costs, claims, damages, and expenses, including attorneys' fees and expenses, arising or resulting from Buyer's violation or alleged violation of this section or of any Trade Control Law. If Items are resold or transferred in violation of any Trade Control Law or the provisions of this Agreement, Seller shall not be obligated to provide any service or anything else for such Items.

18. GOVERNING LAW AND JURISDICTION. The Order and any dispute arising in relation thereto shall be interpreted and construed under the laws of the State of Delaware, without regard to the choice of law provisions, and shall be subject to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts. The U.N. Convention on Contracts for the International Sale of Goods is hereby excluded and not applicable.

19. Termination. In the event a party breaches any material term of this Order and fails to cure such breach within thirty (30) days of receipt of written notice from the other party, such party may immediately terminate the Order. If Seller terminates for Buyer's uncured breach, Buyer shall receive no refunds of fees paid and shall remain liable for all originally contracted fees specified in the Order.

20. Miscellaneous. In the event of any legal proceeding between the Seller and Buyer relating to this Agreement, neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a right to a trial by jury. Any action arising under this Agreement must be brought within two years from the date that the cause of action arose. In the event that any one or more provisions contained herein (other than the provisions obligating Buyer to pay Seller for the Products or Services) shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Except as expressly set forth in this Order, the remedies contained herein are cumulative and in addition to any other remedies at law or in equity. Seller's failure to enforce, or Seller's waiver of a breach of, any provision contained herein shall not constitute a waiver of any other breach or of such provision. Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after being sent by certified mail, postage prepaid, to a party at the address specified in this Order or at such other address as either party may from time to time designate to the other. A copy of notices to Seller shall be sent to the attention of Seller's Legal Counsel at PinPoint Testing LLC, 40 Manning Road, Billerica, MA 01821. This is the complete and exclusive statement of the agreement between Seller and Buyer with respect to Buyer's purchase of the Products and Services. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless in writing and signed by Seller and Buyer.