



QUOTATION

TO: University of Rochester
 Robert B. Goergen Hall
 Rochester, NY 14627

Number: ALD-1360
 Date: January 9, 2014

ATTN: Karl Smith
 CC:

F.O.B. Factory
 Terms: See Below
 Page: 1 OF 7
 Ref: TE

Item No.	Part No.	Description	Qty	Unit Price	Extended Price	Delivery
1	01-29-00414	Soft Start Option	1	\$ 2,490.00	\$ 2,490.00	4 weeks
2	07-29-00089	E-Box Retrofit Kit (Savannah)	1	\$ 14,295.00	\$ 14,295.00	4 weeks
				Sub-Total =	\$ 16,785.00	
				15% Discount =	(2,517.75)	
				TOTAL EX-WORKS Factory, USA =	\$ 14,267.25	

- ◇Payment Terms: 100% by T/T net 30 days after shipment
- ◇Warranty Terms: 90 Days spare parts only excluding consumable goods.
- ◇Freight Terms: FOB Factory, Collect
- ◇Terms and Conditions are attached
- ◇Minimum order of \$250.00 required.
- ◇Any cancellations and returns are subject to a 20% restocking fee.

Quotation Expires 30 days from quotation date

ULTRATECH TERMS AND CONDITIONS OF SALE

1. CONFLICT WITH OTHER TERMS/ACCEPTANCE - The order acknowledgment provided by the Ultratech entity named on such order acknowledgement (hereafter referred to as "UT"), the quotation provided by UT, and these Terms and Conditions of Sale, including any attachments (collectively the "Agreement"), shall prevail over terms and conditions contained in any purchase order, confirmation or other writing submitted by Buyer ("Buyer") to UT. This agreement is expressly conditioned upon buyers acceptance of the terms and conditions set forth herein, as well as upon the rejection of any additional or different terms and conditions set forth in any Buyers documentation. As defined below, unless specifically agreed to in writing by UT, no additional or different terms and conditions contained in Buyer's purchase order, confirmation or other writing ("Buyer's Documentation") shall become a part of the sale, notwithstanding any failure by UT to specifically object to such terms. Any such additional or different terms or conditions are hereby rejected, even if Buyer's Documentation purports to bind UT to such additional or different terms and conditions, and even if such additional or different terms and conditions would otherwise be deemed to have been part of the parties' agreement pursuant to the Uniform Commercial Code. Acceptance by Buyer is limited to this Agreement. Neither acknowledgment nor performance nor delivery shall be deemed or construed as acceptance of Buyer's additional or different terms and conditions, which are hereby rejected. Buyer's order and return of UT's quotation or Buyer's purchase of any UT Product ("Product") or services shall constitute Buyer's acceptance of these Terms and Conditions of Sale. In the case of a conflict between these Terms and Conditions of Sale and those appearing in UT's quotation or order acknowledgment, the order acknowledgement shall prevail over the quotation and these Terms and Conditions of Sale.

2. PRICES - All prices are EXW (Inco terms 2000). Quotations expire after thirty (30) days, unless specifically stated on the front of the quotation. All prices quoted are valid only if Buyer's requested delivery date (including any change orders) is within the delivery time frame in the quotation. The quoted price is based on the present design and configuration of the

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specific Product and does not include price increases attributable to additional required testing, or subsequent design changes. All prices are exclusive of all federal, state, municipal or other government excise, sales, use, VAT, JCT, occupational or like taxes or duties, tariffs, fees or charges ("Tax(es)") now in force or enacted in the future. All Taxes shall be payable by Buyer, unless Buyer presents UT with a proper certificate of exemption from such Tax. In the event UT is required to pay any such Tax at the time of sale or thereafter, Buyer shall promptly reimburse UT therefore.

3. **PAYMENT & SECURITY TERMS** – Except where modified by an amendment hereto prior to the time of acceptance of Buyer's purchase order, Buyer shall pay in accordance with the following schedule: All Products excluding Spare Parts (1) twenty percent (20%) of the purchase price of each Product is due and payable immediately upon order placement; (2) Seventy percent (70%) of the purchase price is due and payable 30 days after shipment of equipment; and (3) Ten percent (10%) of the purchase price is due and payable immediately upon being Accepted, as defined herein. Spare Parts are due N30 days from date of Invoice based on credit approval. Buyer shall have no right to withhold any amount due UT under this Agreement because of a claim Buyer may have against UT. When in UT's opinion, Buyer's financial condition or previous payment record so warrants, or the available financial information to UT regarding Buyer is limited, UT reserves the right to change the credit terms at any time. Buyer hereby grants and UT reserves a purchase money security interest in each Product purchased hereunder, and in any proceeds thereof, for all of Buyer's obligations hereunder until the total purchase price is paid. UT reserves all rights granted to a secured creditor under the Uniform Commercial Code ("UCC"). Upon request by UT, Buyer shall sign any document required to perfect such security interest. Late payments shall bear interest at the lower of either the maximum legal rate of interest or one and one half percent (1-1/2%) per month outstanding the amounts. Buyer shall not grant any third party any security rights in the Products that provide such third party with a priority over UT in connection therewith, and any such grant of rights is null and void *ab initio*.

4. **DELIVERY** - Buyer shall examine all Products or Parts promptly upon receipt thereof. Within ten (10) business days of such receipt, Buyer shall notify UT in writing of any manner in which Buyer claims that the Products or Parts fail to conform to their applicable specifications, or as to any claimed shortages, defects, quality problems, or delivery errors. If no written notification is received by UT within ten (10) business days of receipt, the Products or Parts delivered hereunder shall be deemed to have been received complete and in good working order, subject to acceptance testing, if applicable, and if not, shall be deemed to have been accepted. Shipments of any Products purchased are subject to UT's availability schedule. UT shall make every reasonable effort to meet any scheduled delivery date(s). However, UT will not be liable for its failure to meet such dates. Buyer shall not have the right to reschedule all or any portion or installment of the Products without the written permission of UT. In the event Buyer is unable to receive the Products at the time of delivery, UT, at its sole option and convenience, may deliver such Products to storage at any suitable location including UT's facilities. All costs incurred by UT for the transportation, storage, and insurance of such Products shall be borne by Buyer. UT reserves the right to make partial deliveries. UT shall invoice such partial deliveries separately and Buyer shall pay such invoices when due without regard to later deliveries.

5. **RESCHEDULING AND CANCELLATION** - Buyer shall not have the right to change, cancel, or reschedule this Agreement in whole or in part without the prior written consent of UT. In the event Buyer requests a rescheduling of any Product which will cause a delivery delay and such request is accepted by UT, Buyer agrees to promptly pay to UT reschedule charges of: (a) two percent (2%) of the purchase price per month, or any portion thereof, for any delay of delivery less than ninety (90) days after the scheduled delivery date or (b) five percent (5%) of the purchase price per month for any delay of delivery ninety (90) days or more after the scheduled delivery date, commencing on the scheduled delivery date until the date of delivery for any such Product. All Products specifically manufactured for Buyer and items not normally stocked by UT are non-cancelable and non-returnable as of the placement of the purchase order by Buyer. Buyer may not cancel any order or portion thereof after placement of the purchase order unless agreed to in writing by UT. Cancellations accepted by UT shall bear the following charges which Buyer shall pay to UT upon receipt of UT's invoice: (a) 90% of the purchase price of the Product if the Product is cancelled 0-45 days before scheduled delivery date, (b) 50% of the purchase price of the Product if the Product is cancelled 46-120 days before scheduled delivery date, and (c) 20% of the purchase price of the Product if the Product is cancelled 121-180 days before scheduled delivery date.

6. **TITLE AND TRANSPORTATION** - Products and Parts are shipped EXW (Inco terms 2000) from UT's designated shipping point. Title to Products and Parts shall transfer upon shipment. Buyer shall advise UT of the name of the carrier at least five (5) business days prior to shipment. Buyer's carrier shall use an air ride, climatically controlled, exclusive use trailer to transport the equipment on the ground. Buyer shall pay all transportation, rigging, licensing, importation and insurance costs from designated shipping point. All Products shall be packed for shipment and storage in accordance with standard commercial practices; Buyer shall follow Seller's special shipment instructions for shipments made by air. All risk that Products may be lost, damaged or delayed in delivery to Buyer shall be borne by Buyer from the point of shipping. Ultratech is not responsible for any injury or damage resulting from transport, unloading, uncrating, passage to the installation site, or placement of the tool, and assumes no responsibility for insuring any shipments once they leave Ultratech's dock and are placed in the custody of the first carrier appointed by the buyer, unless expressly modified by any sales term as agreed by both parties. It is the user's responsibility to provide for transportation and insurance from the Ultratech factory to the customer's installation site per the applicable sales term, including physical placement upon the factory floor. An Ultratech representative may be present during the above stated activities, but is there as an observer only, and assumes no responsibility for the performance of any transportation or installation related task, and will not provide any technical recommendations relating to the physical unloading of the product.

7. **SITE PREPARATION & INSTALLATION** - If installation is included in this Agreement, Buyer shall prepare a suitable place for installation and acceptance testing in accordance with UT's applicable site preparation guide. Buyer shall furnish all labor and equipment required for unpacking and placement of the Products at the site. Physical planning, including, without limitations, floor planning, cable requirements and layouts, air-conditioning requirements, electrical requirements and safety requirements, shall be the responsibility of Buyer. Installation shall be scheduled as mutually agreed upon between Buyer and UT. Installation of the Products shall be performed by UT's personnel at Buyer's facilities or designated installation site. UT shall make reasonable efforts to commence installation of the Products within seven (7) days of delivery and to

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complete installation within 30 days thereof and/or as agreed upon between Buyer and UT; however, UT shall not be liable for any failure to meet such dates.

8. **INSTALLATION DISCLAIMER AND LIMITATION OF LIABILITY**– All legal responsibility for the proper facilities preparation, site evaluation, placement, roll-in, installation, de-installation and/or relocation of any tool or product purchased from Ultratech, and including but not limited to those items identified in “Items That The Customer Must Design and Install” (collectively, the “Activities”), shall be borne exclusively by the customer and/or its agents performing any such Activities on its behalf, subject to the disclaimer herein. Such agents undertaking any of the Activities on the customer’s behalf must be customer-certified personnel. Ultratech trained personnel may be present during certain aspects of the initial installation process, such as chamber assembly, as expressly agreed between the parties, but shall have no obligation or responsibility in connection with any other Activity. In connection with those Activities in which Ultratech is present, the customer understands and agrees that Ultratech shall do so based and conditioned upon a complete disclaimer of liability to the customer, its employees and agents, any third parties present or anyone else for any damages or liability resulting therefrom, whether Ultratech could have or should have known of the same and whether such damage is to property or person.

9. **ACCEPTANCE AND TESTING OF PRODUCTS** - In general, a Product shall be deemed “Accepted” if it meets the applicable specifications detailed in the Purchase Order, as limited by these Terms and Conditions of Sale. If installation by UT is included in the Agreement, a Product’s being Accepted is contingent only upon Ultratech demonstrating that it has successfully completed the installation of the Product. A successful “demonstration” shall be defined as the date UT successfully completes its applicable standard installation tests for its Products and any other contractually agreed upon tests, as evidenced by an installation report signed by a UT representative. If Buyer uses Product for its intended use (production, research and development, etc.) prior to UT completing its agreed upon installation tests, the installation testing will be deemed successfully complete, the warranty period will commence and all remaining contractual amounts owed to UT will become immediately due and payable. Any subsequent installation testing must be separately contracted between Buyer and UT, and UT is under no obligation to supply such services (other than those services contractually required by the warranty provisions of this document). In no event shall Buyer claim that it has not Accepted Products on the basis of testing that was not agreed to by UT. If installation by UT is delayed by causes beyond its control for more than thirty (30) days from the date of delivery, warranty commencement, installation and all related testing shall be deemed to have been successfully completed on the ninetieth (90th) day after delivery and UT will have no further obligation to perform additional installation or testing. In the event of such a delay, any additional installation and testing must be separately contracted on a time and materials basis, and Ultratech is under no obligation to perform such services. If Buyer contracts with Ultratech to complete the installation and testing during the warranty period, a reasonable pro-rata allowance will be provided toward the time and materials charges. Ultratech, at its sole discretion, will determine the amount of such allowance. UT specifically disclaims Buyer’s rights of revocation of Acceptance in UCC paragraph 2-608, and Buyer hereby expressly waives any right to claim revocation of acceptance under this or any other provision of the UCC.

10. **DEFAULT** - The failure of Buyer to perform its obligations under this Agreement, including, but not limited to, failure of Buyer to make any payment when due for any Product, or the filing of any voluntary or involuntary petition under the Bankruptcy Code by or against Buyer, insolvency of Buyer, assignment by Buyer for the benefit of creditors, or liquidation of Buyer’s business, shall constitute a default under this Agreement and shall afford UT all remedies of a secured party under the California Commercial Code. In the event of default, UT may, with or without demand or notice to Buyer, declare the entire unpaid amounts under this Agreement immediately due and payable, enter the premises where any Products are located and remove them and sell any or all Products as permitted under applicable law. In addition to any other remedies at law or in equity which UT may have in the event of default, UT may refuse: (1) to install any Products delivered hereunder, (2) to provide maintenance, service, or parts on any Products under any applicable warranty, service or maintenance agreements relating to any Products then in effect between the parties, or (3) to make any further shipments of Products under any agreement between the parties. In addition to the above rights, and not in lieu thereof, in the event of Buyer’s default hereunder, UT may terminate any and all contractual obligations it otherwise would bear hereunder.

11. **LIMITED WARRANTIES** – (a) Hardware. UT warrants with respect to all Products delivered hereunder that the hardware Products shall meet the performance criteria of the applicable standard UT acceptance tests for such Products. Warranty services shall only be provided at the initial installation site. The foregoing hardware warranty shall extend for the following periods: (1) New Steppers (including the software delivered with the Stepper) - One (1) year parts and labor except consumables from being Accepted, as defined herein, (2) Upgrades or Refurbished Steppers (including the software delivered with the Upgrade or Stepper) - Three (3) months parts and labor except consumables from being Accepted, as defined herein, (3) Spare parts, tools, reticles, accessories, software, and other peripheral products - Ninety (90) days from date of shipment. If UT receives prompt notice in writing of defects in the Products during the warranty period, UT shall, at its option, repair or replace the Products or, if UT at its sole discretion, is unable to repair or replace the Products, UT may as an alternative, elect to refund an equitable portion of the purchase price of the Products, provided the Products are first returned to UT.

(b) Software Warranty. UT software Products which are designated by UT for use with UT hardware Products are warranted for ninety (90) days not materially to fail to execute their programming instructions due to defects in workmanship, after installation on the hardware Product. If UT receives notice of such defects during the warranty period (as set forth herein), UT shall repair or replace software which does not execute its programming instructions due to such defects. UT does not warrant that the operation of the software or hardware shall be uninterrupted or error free.

(c) Limitations and exclusions. UT’s obligations set forth in paragraphs (a) and (b) above are Buyer’s sole and exclusive remedies for Products that do not conform to the stated warranties. The foregoing warranties do not extend to any custom Products that have been produced to Buyer’s specifications. No warranties extend to any Products which have been misused, abused, improperly or inadequately installed or maintained or repaired, altered or modified without authorization, operated with non-UT supplied software or interface equipment, subjected to accident or negligence or improper site preparation, or operated outside of the environmental specifications for the Product without UT’s express written consent. Furthermore, the warranties do not extend to any defect, which arises as a result of causes external to the Product (such as power or air conditioning failure). The warranties do not extend to any Products configured with or utilizing replacement parts or software not authorized by UT. The Products are highly susceptible to damage when moved or improperly installed. Any movement or re-installation of the Products after initial delivery and installation by UT stops warranty coverage hereunder. Should Buyer wish to move or re-install the Products at another location, Buyer must first obtain UT’s written authorization of that move or re-installation. If such authorization is provided by UT, all warranty

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service will cease during the move or re-installation. Any damage incurred during the move or re-installation shall be repaired at Buyer's expense. After completion of the move and proper re-installation by UT, the Product will again be eligible for warranty service, subject to any additional fees to provide warranty service for the new location. The original warranty period will not be extended for the time the Product was out of service due to the move or re-installation. IN NO EVENT WILL UT BE LIABLE FOR ANY DAMAGE TO THE PRODUCTS SUSTAINED AS A RESULT OF THE MOVE OR RE-INSTALLATION. In the event Buyer moves or re-installs the Products without seeking UT's authorization, the warranty will be canceled. The foregoing warranties are limited to Buyer and are not transferable. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND NO OTHER WARRANTIES, WHETHER WRITTEN OR IMPLIED, WITH RESPECT TO THE PRODUCTS SOLD OR THE SERVICES PROVIDED HEREUNDER SHALL APPLY. UT SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UT NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME ANY OTHER LIABILITIES IN CONNECTION WITH THE SALE OR USE OF THIS OR ANY PRODUCT. Notwithstanding the foregoing, if the published laws or regulations of the jurisdiction where the Buyer resides and uses the Product prohibit the exclusion of certain implied conditions and warranties, or impose certain mandatory warranties to the sale of the Product, UT's entire liability and Buyer's sole remedy for breach of such conditions and warranties shall be limited (to the extent permitted under applicable law), to the replacement, repair or refund of the Product, at UT's option.

12. LIMITATION OF REMEDIES AND LIABILITIES: UT UNDERSTAKES NO RESPONSIBILITY FOR THE QUALITY OF THE GOODS PROVIDED HEREUNDER EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT. THE REMEDIES PROVIDED HEREIN ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. THE LIABILITY OF UT FOR BREACH OF ANY WARRANTY HEREUNDER IS LIMITED AS SPECIFIED IN PARAGRAH 10. IN NO EVENT SHALL UT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, PRODUCTION OR USE, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS OF SALE OR THE USE OR PERFORMANCE OF ANY PRODUCTS, WHETHER BASED ON CONTRACT OR TORT, INCLUDING NEGLIGENCE, INDEMNITY (EXCEPT AS PROVIDED BELOW), STRICT LIABILITY, OR PRODUCTS LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF UT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL EXTENT OF UT'S LIABILITY FOR DAMAGES OF ANY NATURE TO BUYER, REGARDLESS OF FORM OF ACTION, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCT OF WHICH LIABILITY IS BASED. BUYER UNDERSTANDS AND AGREES THAT REPLACEMENT OF THE PRODUCT OR REIMBURSEMENT OF THE PRODUCT'S VALUE . AT MAXIMUM, ARE RESPONSIBLE REMEDIES FOR ANY FUTURE HARM SUFFERED AS A CONSEQUENCE OF THE PRODUCT PURCHASED BY BUYER. THE FOREGOING LIMITATION OF LIABILITY APPLIES TO PERSONAL INJURY OR DAMAGE TO REAL AND/OR PERSONAL PROPERTY. BUYER UNDERSTANDS THAT THE PRODUCT(S) PURCHASED FROM UT MAY BE INHERENTLY DANGEROUS AND REPRESENTS AND WARRANTS THAT IT AND ITS EMPLOYEES OR OTHER PERSONS ON ITS BEHALF WHO IN ANY MANNER SHALL HAVE CONTACT WITH THE PRODUCTS ARE OR SHALL BE FULLY TRAINED IN THE SAFE USE THEREOF. BUYER ASSUMES ANY AND ALL RISKS OF PERSONAL OR OTHER INJURY ON BEHALF OF ITSELF AND ALL INDIVIDUALS WHO MAY BE INJURED BY SUCH PRODUCT(S), INCLUDING BUT NOT LIMITED TO ITS EMPLOYEES, ITS CONTRACTORS, ITS CUSTOMERS, ITS VISITORS, AND ANY OTHER PERSON.

13. INDEMNIFICATION – Buyer shall defend, hold harmless and indemnify UT, its directors, officers, employees and agents, against losses, damages, and expenses, including attorneys' fees, arising from any claim or proceeding brought by a third party against UT claiming (whether ultimately proven or not) indirect, special, incidental or consequential damages, bodily injury, death, property damage, business interruption and/or personal injury caused by or resulting from the use of any Product sold under this Agreement, or the conduct, operations, and/or performance of UT under this Agreement. It is further agreed that damage to the property being sold, installed, and/or maintained by UT within the scope of this Agreement shall remain the sole responsibility of UT, but in any case shall not exceed the equivalent of the service fee of this Agreement. Except as provided herein, UT shall defend or settle any suit or proceeding brought against Buyer so far as it is based on an allegation that any Product furnished hereunder infringes any United States patent. Buyer shall notify UT promptly in writing of any claim for which it seeks indemnification from UT, and shall give UT information, assistance, and the sole authority and exclusive control to defend or settle the same at UT's expense. Failure by Buyer to promptly notify UT of any such claim shall result in cancellation of any obligation hereunder by UT. UT shall pay all damages and costs finally awarded or settled against Buyer up to, but in no event exceeding, the purchase price of the Product at issue. In case said Product is in such suit held to constitute infringement and the use of said Product is enjoined, UT shall, at its own option and expense, either (i) procure for Buyer the right to continue using such Product, (ii) replace same so it becomes non-infringing Product, or (iii) remove the Product and refund to Buyer the purchase price thereof less a fair and reasonable rental. The following shall be excluded from UT's indemnification obligations: any actual or alleged infringement of patents, copyrights, trade secrets, trademarks, or other proprietary rights resulting from compliance with Buyer's designs, specifications or instructions, from modification of such Product, from use of such Product other than as specified by UT, or from use of such Product with any Products not supplied by UT. Buyer shall defend, indemnify and hold UT, its officers, directors, employees and agents, harmless against, any losses, damages, liabilities, obligations, claims or demands either at law or in equity, costs and expenses, including attorneys' fees for all events excluded from UT's indemnity obligations by the foregoing sentence. The foregoing states the entire liability and exclusive remedies of Buyer and UT for Products furnished hereunder.

14. LICENSED PRODUCTS AND CONFIDENTIAL INFORMATION - **Subject to payment of the applicable license fee (\$100,000)**, UT hereby grants to Buyer a non-exclusive, non-transferable, and non-sub licensable license to use the software and written documentation supplied hereunder for any hardware or software Product including, but not limited to, site preparation guides and reference manuals (the "Licensed Products"), for the sole purpose of using the Product in the manner in which it was intended when sold by UT to Buyer. The sale of Products hereunder by UT does not convey any license separate from the Products, other than to use the Product in the manner in which it was intended when it was sold by UT to Buyer. No licenses or ownership or other rights are granted except as set forth herein or in a properly executed software license agreement between UT and Buyer. Title to the Licensed Products shall remain with UT, notwithstanding anything to the contrary herein. **This license may not be transferred or assigned by Buyer without UT's prior written consent and the payment of a subsequent license fee by the new transferee or assignee.** This license does not extend to the use of any of UT's patented or otherwise proprietary methods or processes in Products not purchased from or supplied by UT or in any Products which have been substantially altered by Buyer or any third party. With respect to the Licensed Products, the word "purchase," "sale" or similar or derivative words are understood to mean "license", and

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"Buyer" or similar or derivative words is understood to mean "Licensee". Buyer agrees that such Licensed Products are proprietary and contain trade secret information of UT and are only for use by Buyer, with the hardware and software Products supplied hereunder. UT expressly reserves all of its rights with respect to any patents rights, copyrights, mask work rights, trade secrets, and any other intellectual and industrial property rights of any sort in the world. Buyer may make up to two (2) copies of UT-supplied machine readable software for backup and archival purposes only. Other than the aforementioned two (2) copies, Buyer shall not copy or duplicate, or permit anyone else to copy or duplicate in any manner, any physical or magnetic version of UT supplied machine readable software. Buyer shall not copy or duplicate any printed materials related to, or furnished with; UT supplied machine readable software, even if only for internal use. Buyer shall secure and protect the Licensed Products from unauthorized copying and disclosure. Buyer must reproduce and include the copyright notice and any other notices that appear on the original Licensed Products on any copies and any media therefore that are permitted hereunder. Buyer shall not (and shall not allow any third party to) (i) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms or file formats or programming or interoperability interfaces of the software or of any files contained in or generated using the software by any means whatsoever, except to the extent that UT cannot prohibit such acts by law, (ii) remove any product identification, copyright or other notices, (iii) provide, lease, lend, use for timesharing or service bureau purposes or otherwise use or allow others to use the Licensed Products to or for the benefit of third parties, (iv) except as specified in the applicable user documentation provided by UT modify, incorporate into or with other software or create a derivative work of any part of the software or (v) except if, as and to the extent expressly authorized in the applicable user documentation provided by UT, transmit or use the software over a network. Buyer shall not provide or otherwise make available such Licensed Products or any part or copies thereof in any form to any third party, except Buyer's employees directly concerned with Buyer's licensed use of said Licensed Product. Any documentation and data supplied by UT to Buyer and marked "confidential" are proprietary and confidential to UT and Buyer hereby represents and warrants that it shall not disclose the same to any person not employed by Buyer, and then only to employees with a need to know the same as part of their employment by Buyer. UT retains for itself all proprietary rights to all designs, engineering details, and other data pertaining to any Product sold to Buyer hereunder and Buyer understands and agrees that it obtains no ownership rights or other rights in the Products not expressly set forth herein. Buyer agrees to use its best efforts to maintain the confidentiality of any proprietary documentation or data supplied to it and not to disclose or use such documentation or data in any manner inconsistent with the purpose for which it was disclosed. UT may, at its sole option, require Buyer to execute a separate confidentiality agreement acceptable to UT as a condition to providing any documentation or data, which it considers proprietary or confidential.

15. Buyer acknowledges and agrees, to the full extent permitted by the law, that to the extent, if at all, any equipment purchased by Buyer hereunder is at any time held or determined to be subject to those certain European Community directives known as Restriction of Certain Hazardous Substances ("RoHS"), and for "Waste from Electrical and Electronic Equipment ("WEEE") (collectively, the "Directives"), or to any member countries' laws based upon either or both such Directives, Buyer, and not UT, shall at all times be responsible for assuring compliance therewith. Buyer agrees to indemnify, defend and hold UT harmless from any and all claims, suits, or other legal proceedings related to or in any way connected to compliance with the Directives.

16. **DISPUTES/BINDING ARBITRATION:** Any controversy between UT and Buyer arising out of or in any way directly or indirectly related to this agreement, or its performance breach, interpretation, termination or otherwise. And whether sounding in tort, contract or any other legal theory, shall be submitted to binding arbitration in the County of Santa Clara, California U.S.A., before a single arbitrator to be chosen in accordance with the selection process of either the American Arbitration Association or JAMS (at the claimants discretion), and such arbitration shall be carried out in accordance with the rules of the entity providing the arbitrator. All arbitration proceedings shall be carried out in English, except where translators for certain witnesses are needed. The decision of the arbitrator shall be rendered in writing within thirty (30) days of the close of the arbitration hearing. The arbitrator's award may be entered as judgment in any court of competent jurisdiction.

17. **MISCELLANEOUS - (a) CONTROLLING LAW:** UT and the Buyer acknowledge and agree that the sale of the Product and the negotiation of all related documents, including this Agreement, took place in California. This Agreement is executed in California and shall be governed by the laws of the State of California, without consideration of California's choice of law principles. Except as provided in (k), below, the parties hereby agree that any dispute relating to the Products sold hereunder shall be subject to the exclusive jurisdiction of the courts within the County of Santa Clara, State of California. **(b) ASSIGNMENT:** This Agreement may not be assigned in whole or in part by Buyer without the prior written consent of Seller. **(c) NOTICES:** All communications shall be deemed to have been given when personally delivered, telecopied, or when deposited in the US mail, postage prepaid, or when delivered to the post office for certified or registered mail, return receipt requested. **(d) SUBSTITUTIONS, MODIFICATIONS, AND CHANGES:** UT shall have the right to make substitutions of Products sold hereunder, provided that such substitutions or changes do not materially detract from the overall Product performance. UT reserves the right at any time to make changes in design or additions to or improvements in its Products without liability or obligation to install such change, addition or improvement to any Product manufactured prior thereto. UT shall not be obligated to make any change in Products requested by Buyer after the placement of the Purchase Order by Buyer. Buyer shall be liable for the costs of any changes requested by Buyer and agreed to by UT. **(e) REGULATIONS NOT INCORPORATED:** No US Government Procurement Regulations shall be included hereunder nor shall either party take any action to cause such regulations to be binding on either party unless specifically agreed to in writing prior to incorporation herein. **(f) CLERICAL ERRORS:** Stenographic, typographical, and clerical errors are subject to correction. **(g) COMPLIANCE WITH LAWS:** Unless otherwise agreed in writing, Buyer assumes all responsibility for obtaining any required export authorization. Buyer shall not export or re-export technical data or Products in violation of US Export Administration Regulations or similar laws. **(h) SEVERABILITY:** If any provision of this Agreement is held invalid it shall be deemed severable from all other provisions of the Agreement. **(i) WAIVER:** No waiver of any provision of this contract shall be effective unless made in writing. UT's failure to enforce any term of this Agreement shall not be deemed a waiver of future enforcement of that or any other term. UT's acceptance of any payment after the due date or UT's election to continue making shipments after default shall not constitute a waiver of any default by Buyer or effect UT's legal remedies for any such default. **(j) RETURN OF PRODUCT:** UT may, at its sole option and convenience, permit Buyer to return conforming Product subject to a nominal restocking fee. Products may not be returned without first obtaining UT's permission, in the form of a Return Material Authorization (RMA) number. Only unused material, as currently manufactured, which has been invoiced to Buyer within ninety (90) days, will be considered for return. **(k) RIGHT OF FIRST REFUSAL:** Buyer hereby grants to UT the right of first refusal to repurchase the Products sold to Buyer herein. If Buyer has a bona fide offer to purchase the Products, Buyer shall immediately notify UT of such offer in writing. Such notification shall include: (i) the business terms and conditions upon which it proposes to sell the Products, and (ii) the identity of the proposed purchaser. UT shall have the option, within five (5) business days after

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receipt of the notification, to enter in to an agreement with Buyer to repurchase the Products under similar business terms and conditions as those offered by the proposed purchaser. (l) REMANUFACTURED, REWORKED, AND USED PARTS: Products sold hereunder may contain remanufactured, reworked, or used parts. All spare parts sold to Buyer are delivered in a new, or like new, condition. (m) BUYER'S PROPERTY: All Buyer property used by UT in the manufacture of goods hereunder are received and held at Buyer's risk and without liability to Seller. (n) CONTINGENCIES: Acts of God or of the public enemy, acts of Governments in their sovereign capacity, fires, floods, earthquakes or other natural acts, explosions, acts of terrorism, epidemics, acts of war, quarantine restrictions, inability to secure workmen, lack of material, lack of facilities, voluntary or involuntary compliance with any valid or invalid law, order regulation, request or recommendation by any governmental agency or authority, lack of transportation facilities, failure of source of supply, or any cause which is beyond the immediate and direct control of a party, labor disputes and embargoes, or any cause which is beyond the immediate and direct control of a party, whether or not of the kind or nature hereinabove specified, (collectively, "Act(s)"), shall constitute excusable delays provided notice is given to the other party within seven (7) days of the occurrence of such event, and it can be established by either party on its behalf or on behalf of any of its suppliers (at all tiers) that any of the above events has delayed performance of its work, and was beyond the reasonable control and not due to the negligence or default of such party and its said suppliers (at all tiers). If Buyer fails to perform because of any such causes, UT shall be entitled to suspend all performance hereunder for the duration of such failure without liability to Buyer. Notice shall be given within seven (7) days of termination of the excusable delay condition... (o) ENTIRE AGREEMENT: This Agreement supersedes all prior and contemporaneous agreements and understandings between UT and Buyer relating to the subject matter hereunder and no modifications of this Agreement shall be binding on either party unless it is in writing and signed by both parties.

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Amendment to Section 3:

The payment terms set forth in Section 3 of the Agreement, namely "Buyer shall pay in accordance with the following schedule: All Products excluding Spare Parts (1) twenty percent (20%) of the purchase price of each Product is due and payable immediately upon order placement; (2) Seventy percent (70%) of the purchase price is due and payable 30 days after shipment of equipment; and (3) Ten percent (10%) of the purchase price is due and payable immediately upon being Accepted, as defined herein. Spare Parts are due N30 days from date of Invoice based on credit approval" are amended and superseded by the following: Prior to any shipment of Product to Buyer, Buyer shall cause to be executed and created for UT's benefit an irrevocable letter of credit for one hundred percent (100%) of the purchase price for any purchase order placed by Buyer and accepted by UT. UT shall be under no obligation to ship any Products to Buyer unless and until such valid letter of credit is available to UT for payment of the purchase price.

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