

STANDARD TERMS AND CONDITIONS OF SALE

1. **APPLICABILITY** - SUBJECT TO THE EXPRESS PROVISIONS ON THE FACE OF THIS DOCUMENT AND THE EXPRESS TERMS OF ANY SALES AGREEMENT BETWEEN THE PARTIES AND APPLICABLE TO THIS TRANSACTION, THESE STANDARD TERMS AND CONDITIONS OF SALE EXCLUSIVELY GOVERN ALL QUOTATIONS, ORDERS AND SALES ENTERED INTO BY REVASUM, INC. ("SELLER") AND BUYER HEREUNDER. ACCEPTANCE OF BUYER'S ORDER AND SELLER'S AGREEMENT TO FURNISH GOODS OR SERVICES ARE EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THESE PROVISIONS. This document is intended to be the parties' final and exclusive statement of the terms of their Agreement with respect to equipment, spare parts or other products purchased or services provided hereunder. No course of dealing, no usage of trade and no acceptance or acquiescence to any course of performance shall modify, alter or be relevant to explain this Agreement. Any additional or different Buyer term(s) or condition(s), including terms and conditions stated on Buyer's RFQ, purchase or other order form or notice, shall be deemed a material alteration of, and be inapplicable to, any transaction hereunder unless specifically agreed to in writing by Seller. Buyer hereby expressly and irrevocably waives any claim or right to assert any claim based on an oral modification of the terms hereof or oral promises or representations relating to Seller's sale or provision of equipment, parts, other products or services hereunder.

2. **PAYMENT** - Payment is due in U.S. dollars worldwide as follows: (A) For System sales (capital equipment in Seller's product line): (1) 30% of the purchase price is due net 5 day after placement of a purchase order; (2) 70% of the purchase price, less 10% of the system net sales price, due net 30 days from shipment (net system sales price is defined as the purchase price excluding spare parts, installation, crating, taxes, insurance and other fees); and (3) the remaining balance (10% of the system net sales price) is due upon Acceptance, but in no event no later than ninety (90) days after date of shipment if no fault of Seller, and (B) with respect to all other parts, products and services, 100% no later than thirty (30) days after date of shipment or performance. (C) A down payment may be required on special parts, consumables, upgrades, or service orders. "Acceptance" is deemed complete upon the earlier of (1) completion of start-up and installation of equipment in conformance to the agreed specifications, or (2) utilization in commercial production of any System, or (3) Buyer fails to install or reject the equipment within ninety (90) days of shipment. Seller reserves the right in its reasonable judgment to place Buyer on credit hold in response to Buyer's financial condition. Late payments are subject to interest at the highest rate allowed by applicable law.

3. **TAXES** - Any tax, duty, fee or charge imposed currently or subsequently by any governmental or other taxing authority shall, upon demand by Seller, be paid by Buyer in addition to Seller's quoted or invoiced prices, except where Buyer firmly provides Seller with a valid tax exemption certificate.

4. **SECURITY INTEREST** - Buyer grants Seller a continuing first security interest and lien, or the equivalent in a non-U.S. jurisdiction ("Lien"), upon any System or other products Seller ships to Buyer hereunder, and in the proceeds and products thereof (collectively the "Collateral"), until Buyer makes full payments required hereunder. Buyer agrees, as reasonably necessary, to execute further documents and to take all actions Seller requests to protect and perfect this Lien. Buyer irrevocably appoints Seller as Buyer's limited attorney-in-fact to execute and file on behalf of Buyer a UCC-1 financing statement, or the equivalent in a non-U.S. jurisdiction, describing the Collateral. California law, without regard to conflict of law's provisions, governs the creation, perfection and enforcement of this Lien and rights thereunder. All Seller's rights and remedies shall be cumulative.

5. **DELIVERY; FORCE MAJEURE** - Shipment of Systems or other products hereunder is effective Ex Works Seller's factory, as of the first date available for shipment. Title to Systems or other products passes to Buyer upon shipment. Seller reserves the right to make partial shipment or partial performance. Seller may separately invoice. Delay in shipment shall not relieve Buyer of its obligation to pay for products or to accept subsequent shipments. Seller shall not be liable for any costs, losses, damages, claims or liabilities ("Damages") due to non-performance caused by events beyond its reasonable control. If such instance, Seller may, at its sole option (1) extend the shipment date for a time equal to the period of the delay and/or (2) allocate its available supply among its customers when it is unable to supply its total demands and/or commitments. Seller is not obligated to procure products, services or other items from others to enable it to perform.

6. **EXAMINATION** - Buyer shall examine all Systems and other products (not subject to a pre-agreed installation and acceptance procedure performed by Seller) upon receipt and must notify Seller in writing immediately of any complaint or grounds for rejection. Unless otherwise agreed in writing, any Systems or other products not returned to Seller within sixty (60) days after original shipment to Buyer shall be deemed unqualifiedly Accepted as of the sixtieth day. Seller may, at its option, accept non-defective returned products provided they are unused, undamaged, sealed in the original packaging, accompanied by Seller's return authorization and received by Seller within sixty (60) days; Seller may reject all other returns. Non-defective returned products accepted by Seller will be credited to Buyer's account, subject to a 20% restocking fee. No restocking fee will be assessed where products are returned because of an incorrect shipment due solely to Seller's fault and such products are returned to Seller within the sixty (60) day period.

7. **SOFTWARE LICENSE** - Seller hereby grants Buyer a limited, nonexclusive, non-assignable personal license to use the licensed software provided hereunder, subject to the following terms and conditions. Seller shall retain sole and exclusive ownership of all right, title and interest in and to the licensed software, subject only to Buyer's expressly granted rights herein, and no transfer of title, other ownership interest, right to sublicense or any other rights whatsoever are granted or implied. This license is strictly limited to use of the licensed software exclusively by Buyer and exclusively on the specific System or product with which it was supplied. Buyer agrees not to, and not to permit others to, copy, modify, duplicate, decompile, disassemble, translate or reverse-engineer the licensed software (and accompanying manuals) in any manner or form. Buyer agrees not to sell, assign, distribute or otherwise transfer any licensed software. Buyer may make one backup or archival copy only of the licensed software in object code or other machine-readable form.

8. **WARRANTY** - Seller warrants to Buyer as original purchaser that: (i) consumable parts shall conform to proper form, fit and initial function on the date of shipment; (ii) new Systems shall be free from defects in material and workmanship and shall conform to Seller's published specifications (or other specifications agreed upon in writing by the parties) for twelve (12) months from the date of Acceptance, but in no event longer than fifteen (15) months from date of shipment if no fault of Seller; (iii) re-manufactured or refurbished Systems shall have a six (6) month warranty, but in no event longer than nine (9) months from date of shipment if no fault of Seller, unless otherwise agreed in a specification signed by Seller; (iv) software, software upgrades or revisions, and all other parts or products provided by Seller, including non-consumable parts, shall be free from defects in design, materials and workmanship for ninety (90) days from date of shipment; and (v) services performed by Seller shall be free from defects in workmanship for ninety (90) days from the date of performance. This warranty will not apply to subsequent purchasers. This warranty will apply to Buyer only if Buyer: (a) promptly notifies Seller in writing during the warranty period of the claimed defect or nonconformity, and (b) makes the item(s) available for correction at Buyer's facility or returns the item(s) after obtaining prior written authorization from Seller. Buyer bears the risk of loss or damage during transit and all expenses incurred by Seller for unauthorized shipments. Unless otherwise agreed in writing, Buyer's return of such items constitutes Buyer's authorization for Seller to repair the goods and to invoice Buyer for any and all reasonable costs of repair, labor, parts and freight on items not covered by the terms of the applicable warranty. Seller's liability hereunder is limited solely, at Seller's option, to repair or replacement with new or "like new" equivalent goods, and any warranty service is limited to Seller's standard working hours (usually 8 a.m. to 5 p.m., Monday through Friday). Seller shall hold all right, title and interest in and to any goods replaced under this warranty provision. The original warranty period shall not be extended by acts of Seller in compliance with this section. Licensed software is not warranted as free from errors or "bugs," and Seller's sole obligation is to use reasonable efforts to supply Buyer with a corrected version after notice of defect. This warranty is voidable by Seller should (1) Buyer not reasonably comply with the requirements and recommendations of Seller's preventative maintenance program or does not perform the recommended maintenance procedures as outlined in the manuals, (2) Seller's examination discloses to its satisfaction that such defect or nonconformity does not exist, (3) Seller's examination discloses to its satisfaction that a defect or nonconformity was caused, in whole or in part, by events or conditions beyond Seller's reasonable control or by any acts or omissions of Buyer, including without limitation, improper application, unauthorized maintenance, repair or alteration, (4) Seller's examination discloses to its satisfaction that the equipment was maintained or serviced by a third party not authorized by Seller or contains or utilizes parts not supplied or approved by Seller, or (5) Buyer fails to install product or System in recommended environment with recommended air, water, ventilation and temperature controls. THE FOREGOING WARRANTIES ARE EXCLUSIVE OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER SELLER OBLIGATIONS OR LIABILITIES IMPLIED BY LAW. THE FOREGOING CONSTITUTES BUYER'S SOLE AND EXCLUSIVE REMEDY FOR SELLER FURNISHING DEFECTIVE OR NONCONFORMING GOODS, SYSTEMS, MATERIALS, SPARE PARTS, SERVICE OR SOFTWARE.

9. **DISCLAIMER OF IMPLIED WARRANTIES**. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE EXPRESS WARRANTIES SET FORTH IN SELLER'S STANDARD TERMS AND CONDITIONS OF SALE. SELLER DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER SELLER OBLIGATIONS

OR LIABILITIES APPLIED BY LAW. THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL CONSTITUTE BUYER'S SOLE AND EXCLUSIVE REMEDY FOR SELLER FURNISHING DEFECTIVE OR NON-CONFORMING GOODS, SYSTEMS, MATERIALS, SPARE PARTS, SERVICE OR SOFTWARE.

i. **INFRINGEMENT** - Seller shall indemnify Buyer from any legal liability from a third party claim that any System or other product infringes any patent, copyright, mask work or similar intellectual property or trade secret right of a third party then existing in the U.S., Canada, the European Union or Japan, and to the extent limited below, shall hold Buyer harmless from all reasonable damages, costs or losses arising from a final adjudication of such legal action; provided that: (A) Buyer gives Seller prompt written notice of any such legal action together with all requested information, assistance and authority during the course of the investigation or defense of any such claim, and (B) permits Seller, at its option and through counsel of its choice, to answer and defend such claim. Notwithstanding the foregoing, Seller shall have no liability or obligation to indemnify Buyer where: (i) infringement is attributable to Seller's incorporation of Buyer-supplied or Buyer-specified designs or processes into the System or other product; (ii) such legal claim or the damages, costs or losses arising therefrom, would have been avoided but for the combination, operation or use of the System or other product with devices, parts, processes or software not supplied or not required by Seller, including modifications made by Buyer to the System or other product; and/or (iii) the System or other product was not used in conformity with Seller's recommendations or its intended purpose. Notwithstanding the foregoing, should any System or other product become the subject of any such legal action, Seller may, at Seller's option and expense: (1) procure for Buyer the right to make, use and sell the System or other product; (2) replace or modify the System or other product to make it non-infringing; or (3) if the right to make, use and sell cannot be procured or the System or other product cannot be replaced or modified at reasonable expense, reimburse Buyer for the total amount paid by Buyer for the System or other product, less reasonable cost of Buyer's use. SELLER'S LIABILITY OR OBLIGATION TO BUYER UNDER THIS SECTION SHALL IN NO EVENT EXCEED THE AMOUNT PAID BY BUYER TO SELLER FOR SUCH SYSTEM OR OTHER PRODUCT LESS THE REASONABLE VALUE OF USE OF THE PRODUCT. THE FOREGOING IS SELLER'S ENTIRE OBLIGATION AND BUYER'S EXCLUSIVE REMEDY FOR ALL THIRD PARTY CLAIMS OF INFRINGEMENT, AND IS IN LIEU OF ANY OTHER OBLIGATIONS OR WARRANTIES, EXPRESS OR IMPLIED, BY SELLER TO BUYER.

ii. **INDEMNIFICATION** - Except as expressly provided in the preceding section, and subject to the other provisions herein, each party agrees to indemnify and hold harmless the other party from and against all reasonably incurred damages arising out of this transaction, but only to the extent caused by the breach of a material and express obligation hereunder or the gross negligence or willful misconduct of the indemnifying party.

iii. **LIABILITY LIMITATION** - EXCEPT AS PROVIDED IN SECTIONS 9, 10 AND 12, AND NOTWITHSTANDING ANYTHING OTHERWISE TO THE CONTRARY, IN NO EVENT MAY EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, OR FOR ANY AMOUNT GREATER THAN THE ACTUAL PRICE OR FEE ALLOCABLE TO THE SYSTEM, PRODUCT OR SERVICES PAID FOR BY BUYER UNDER THIS AGREEMENT.

10. **ALLOCATIONS OF RISK** - This Agreement allocates the risk of product failure between Seller and Buyer. The allocation is recognized by both parties and reflected in the price of the products.

11. **CHANGES; CANCELLATION; RESCHEDULING** - In addition to any price increase owed as a result of Buyer's changes, cancellations or rescheduling, if Buyer cancels all or part of an order under this Standard Terms and Conditions of Sale at any time prior to the scheduled shipment date, then Buyer agrees to pay Seller the following amounts:

- i. 50% of the total order value if cancellation occurs within 12-weeks of the delivery date;
- ii. 75% of the total order value if cancelled within 8 weeks of the delivery date;
- iii. 100% if cancelled within 4 weeks of the delivery date. Any changes or reconfigurations that require new or additional parts or assemblies are to be paid in advance, at the time of the change order, 100% of the quoted cost. Any cancellations on or after date of shipment shall be null and void and 100% of the order value is due and payable by Buyer. Upon prior written agreement of the parties and payment of the above fees and/or costs, as reasonably determined by Seller, Buyer may (1) reschedule delivery and/or (2) change the mechanical configuration, specifications or description of the goods or services ordered. Change orders submitted after Seller receives an order are subject to restocking and/or reconfiguration fees of 20% of the sales order amount. Seller may need to reschedule deliveries however any cancellation fees will be calculated on the new delivery date(s) communicated by Seller.

12. **NON-DISCLOSURE** - Buyer agrees neither to use Seller's confidential information in any manner which would result in a disclosure nor to disclose any Seller confidential information to any other person (except to its employees to a demonstrable need to know. All Seller confidential information shall be immediately returned to Seller upon request.

13. **ASSIGNMENTS** - Neither party shall assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the other, except that Seller may assign its right to payment, assign this agreement to an affiliated, subsidiary or successor company and/or subcontract the provision of services.

14. **NON-WAIVER** - Failure by a party to take affirmative action with respect to any breach of these terms and conditions by the other party shall not be construed as a waiver of that breach or of future breaches.

15. **GOVERNING LAW; SURVIVAL OF TERMS** - This transaction will be governed, construed and enforced in all respects by the laws of the State of California without regard to conflict of laws considerations. The parties consent to San Luis Obispo County, California, and any California state and/or federal district court located within its boundaries, as being the exclusive venue and jurisdiction of any litigation or other dispute resolution modality; except that Seller may take action in any jurisdiction to realize on the Collateral or any other security for Buyer's obligations hereunder, prevent disclosure of Seller confidential information, or enforce a judgment or other decision. If all or any part of these terms and conditions is determined to be unenforceable, the remaining provisions will remain enforceable.

16. **DISPUTES** - Any dispute or claim arising out of this Agreement, or the goods or services provided hereunder, shall be decided by binding arbitration in the County of San Luis Obispo, California. If the parties cannot agree on an arbitrator, the Superior Court of the county of venue shall appoint the arbitrator. Filing a judicial action for recording a notice of pending action, order of attachment, receivership, injunction or other provisional remedies, shall not waive these arbitration rights nor is recourse to such provisional relief precluded by the availability of arbitration hereunder. The parties shall split the arbitrator's fees.

17. **ATTORNEYS FEES** - In any judicial or arbitration proceeding arising out of this Agreement, or the goods or services provided hereunder, the prevailing party is entitled to recover all reasonable costs incurred pertaining to such proceeding, including without limitation reasonable costs and fees of attorneys or other professionals ("Expenses"), except that and such Expenses awarded must bear a reasonable relationship to the prevailing party's actual recovery.

18. **WAIVER OF JURY/LIMITATION OF ACTIONS** - Buyer and Seller hereby agree, to the fullest extent permitted by law, to waive any right to adjudication by jury of any claim or cause asserted against the other and arising hereunder and, further, that any such claim or cause if not brought within two (2) years of the event from which the claim or cause arises, shall be forever waived and time-barred.

19. **ENGLISH** - All documents and agreements relative to any dispute between the parties shall be read, interpreted, construed from English versions thereof. All proceedings shall be conducted in English.

20. **COMPLIANCE WITH LAWS** - Each party hereby represents and warrants to the other that the performance of its obligations hereunder will, at all times, comply with all federal, state and municipal laws, rules or regulations which may apply, including, but not limited to those relating to: (i) import, export and re-export of commodities, materials, technical data and software, (ii) health and safety, (iii) labor and employment, (iv) the environment, and (v) use, treatment, disposal and hazardous chemicals and materials. Each party agrees to deliver to the other party a certificate of compliance with all applicable laws, rules or regulations, if requested.

21. **ENTIRE AGREEMENT** - Seller's quote, and these terms and conditions contain the entire and only agreement between Seller and Buyer with respect to the subject matter covered. No salesman, agent or distributor of the Seller is authorized to make any representations or warranties regarding the products listed on Seller's quotation, or on any other of Seller's products except for those representations and warranties stated in writing and incorporated or made a part of this Agreement.

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