



## General Terms and Conditions of Sale

### 1. DEFINITIONS

For purposes of this General Terms and Conditions of Sale, the following definitions will be used. The term "Seller" refers to LICAP Technologies, Inc., a Delaware corporation. The term "Buyer" refers to the customer designated on a Seller Order Acknowledgement ("Order Acknowledgement"). The term "Product" refers to the goods sold by Seller and described in the Order Acknowledgement. "Services" refers to any non-recurring engineering services and/or development of tooling done by Seller. The term "Contract" refers to this document.

### 2. SALE TERMS

Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Products and Services specified in the Order Acknowledgement under the terms of this Contract. Buyer may not add, alter, or delete any terms of the Contract without the express written consent of Seller. If, for any reason, Buyer fails to affirmatively accept the Contract in writing, any conduct by Buyer which recognizes the existence of a contract pertaining to the subject matter hereof, including payment for and/or acceptance of any Products or Services, shall constitute an acceptance by Buyer of this Contract and all of its terms and conditions.

### 3. PRICES SUBJECT TO CHANGE

Seller endeavors to provide as much advance notice as possible to Buyer of any changes in prices. Notwithstanding this, Seller and Buyer expressly acknowledge and agree that prices are subject to change without notice. Accordingly, an adjustment to Seller's prices to reflect those prices in effect at time Buyer places an order may be made. Unless otherwise specified by Seller, prices for the specific quantity noted in the Order Acknowledgement are to be the final prices and do not include taxes nor additional charges for transporting, insuring, specially packaging, or marking the Products. Prices for any undelivered goods or services may be increased by Seller in the event of any increase in the cost of supplies, raw materials, labor or services, or any other increase in Seller's costs resulting from any cause beyond Seller's control.

### 4. PAYMENT

- (a) Seller requires all new Buyers to pay the full purchase price in cash in advance of performance.
- (b) Payments will be made according to terms agreed upon by both Buyer and Seller. These terms include payment by credit card, wire transfer, or check.
- (c) Checks are accepted subject to the funds being received by Seller. The date such funds are actually received by Seller will be deemed the date of payment. Any check received from Buyer may be applied by Seller against any obligation Buyer owes to Seller, under this Contract or any other Contract, regardless of any statement appearing on or referring to such check, without discharging Buyer's liability for any additional amounts owing by Buyer to Seller; and the acceptance by Seller of such check does not constitute a waiver of Seller's right to pursue the collection of any remaining balance.
- (d) Buyer agrees to pay the entire net amount of each invoice rendered by Seller pursuant to the terms of each such invoice without offset or deduction.

### 5. CREDIT ACCOUNTS

- (a) Applications for credit may take up to 30 days to process and are subject to approval by Seller. In the event Seller extends credit to the Buyer, the following additional terms (b)-(e) are hereby agreed to be applicable.
- (b) Buyer agrees to keep the account current and agrees to pay each invoice according to its terms. Buyer agrees to provide funds in advance if Buyer's account will incur expenses that exceed the established credit limit. The amount of credit extended to the Buyer is subject to periodic review and any decision to increase, decrease, or revoke the amount of credit granted to the Buyer will be at the sole discretion of the Seller.
- (c) If, for any reason, Seller no longer finds Buyer's credit to be satisfactory, in Seller's sole discretion, Seller reserves the right to require payment in advance or on delivery, or to otherwise modify credit terms, either before or after shipment of any or all Products specified herein. If Seller believes in good faith that Buyer's ability to make the payment called for by this Contract may be impaired, Seller may demand assurances from Buyer regarding Buyer's ability to pay. In the event Buyer does not provide assurances sufficient to assuage Seller's concerns, Seller may cancel this Contract. If Seller so cancels this Contract, Buyer will remain liable to pay for any Products already shipped and/or Services already rendered.



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(d) In the event that the Buyer fails to keep Buyer's account current, Seller reserves the right to accelerate all outstanding payments and amounts owed by the Buyer, causing them to become immediately due and payable. All overdue payments and amounts owed will be assessed a late fee of one and a half percent (1.5%) per month, from the initial due date until the date the amount is paid in full. If Seller is required to undergo any collection efforts to recover amounts from Buyer, Buyer will be liable to Seller for all costs of such efforts, including but not limited to attorneys fees.

(e) If any invoice remains unpaid for thirty (30) days after the demand for payment, the Seller may, in addition to any other rights it has under other agreements and/or applicable law, exercise any or all of the rights of a secured party and forward Buyer to collections.

### 6. TAXES

Unless otherwise agreed in writing, Buyer shall be responsible for the payment of any and all Federal, state, and local sales, use, and excise taxes and all other taxes and charges assessed in connection with sales made under this Contract.

### 7. DELIVERY

(a) All deliveries will be made ExWorks Seller's factory unless otherwise specified in the Order Acknowledgement. Seller will select the carrier unless Buyer requests otherwise. Title to the Products, and risk of loss, shall pass to Buyer upon Seller's delivery of the Products to the carrier; thereupon, Buyer shall be responsible for the Products. Transportation from the ExWorks point designated in the Order Acknowledgement, handling, and insurance are at the cost of Buyer. Products held or stored for Buyer by Seller will be at the risk and expense of Buyer.

(b) Seller will use commercially reasonable efforts to fill orders according to the delivery dates acknowledged by Seller. Buyer and Seller expressly acknowledge and agree that all delivery dates are approximate, and that many factors may affect the delivery date for the Products. Delivery may be made in installments, either at Seller's discretion or Buyer's reasonable request. Any reasonable delay by Seller in delivering the whole or any part or installment of the Products or Services under this Contract will not be grounds for default.

### 8. INSPECTION

The Products delivered to Buyer will be deemed accepted unless Buyer notifies Seller in writing within ten (10) calendar days from the date of delivery of any Products or Services that said Products or Services are rejected. In order for the notice of rejection to be effective, it must also specify the reasons why the Products or Services are being rejected. If Buyer wishes to claim shortages in a delivery, Buyer must do according to the terms of this provision.

### 9. SELLER'S LIMITED WARRANTY AND LIMITATION OF LIABILITIES

(a) Seller warrants that, at the time of delivery, the Products sold hereunder will be free from defects in materials and workmanship and will conform to Seller's applicable specifications in effect at the time of delivery, or to other specifications provided by Buyer and accepted by Seller in writing. Seller further warrants that the Products sold hereunder will be covered by this warranty for two years from the date of delivery by Seller.

(b) If any defect within this warranty appears within two years from the date of delivery by Seller, Buyer must notify Seller immediately. Seller agrees, at its election and as Buyer's sole remedy, (i) to repair the defective Products, (ii) to replace the defective Products with the same or functionally equivalent products, or (iii) to issue a credit in the amount of the unit price paid by Buyer for any defective Products. Seller reserves the right to condition these remedies upon Seller's testing and examining the allegedly defective Products, and if the same are found to be defective under the terms of the warranty, Seller will provide one of the above enumerated remedies. The warranty period will not be extended by any replacement or repair of any Products. No Products will be accepted for return or replacement without the written authorization of Seller with a designated Return Material Authorization number (RMA). Upon such authorization and in accordance with instructions from Seller, the Products will be returned with shipping charges prepaid by Buyer per industry standard unless otherwise authorized.

(c) The warranty does not extend to any Products manufactured by Seller which have been subjected to misuse, neglect, accident, improper testing or installation, unauthorized repair, or alteration, whether by Buyer or others. This warranty may not be expanded, and no obligation or liability will arise, due to technical advice or assistance, qualification, or testing data or service Seller may provide in connection with Buyer's purchase.



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(d) THIS LIMITED WARRANTY IS EXTENDED TO BUYER ONLY AND IS NOT TRANSFERABLE TO SUBSEQUENT PURCHASERS OR USERS OF PRODUCTS. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR OTHERWISE. ALL OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. The remedies of Buyer will be limited to those provided herein. No agreement varying or extending the foregoing warranty, remedies, or this limitation will be binding upon Seller unless in writing and signed by a duly authorized officer of Seller.

(e) IN NO EVENT WILL SELLER'S TOTAL LIABILITY TO BUYER, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHERWISE, EXCEED THE PRICE OF THE PARTICULAR PRODUCTS SOLD HEREUNDER WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES.

(f) Products and Services are provided as is. Developmental products, including without limitation prototypes and pre-production samples and any Services (whether or not paid for by Buyer) are provided "as is" without warranty of any kind.

### 11. PATENT INDEMNITY

(a) Seller will conduct, at its own expense, the entire defense of any third party claim, suit, or action brought against Buyer alleging that, without further combination, the use or resale by Buyer of the Products delivered hereunder directly infringes any United States patent or copyright. This indemnify will only be effective if the following conditions are met:

(i) Seller receives prompt written notice of such claim, suit, or action and full opportunity and authority to assume the sole defense thereof, including settlement and appeals, and all information available to Buyer for such defense; and

(ii) Said Products were made according to a specification or design furnished by Seller or, if a process patent is involved, the process performed by the Products is or was recommended in writing by Seller.

Provided the foregoing conditions are met, Seller will, at its own expense, either settle said claim, suit, or action or will pay any and all damages awarded by a court or other administrative official or body, excluding consequential and special damages and costs. If the use or resale of such Products is enjoined by a court or administrative official or body, Seller will, at Seller's option, (1) procure for Buyer the right to use or resell the Products, (2) replace the Products with equivalent non-infringing Products, (3) modify the Products so they become non-infringing but equivalent, or (4) refund the purchase price (less reasonable allowance for use, damage, and obsolescence).

(b) This indemnity does not extend to any suit based upon any infringement or alleged infringement arising from Products furnished by Seller that are: (1) altered in any way by Buyer or any third party if the alleged infringement would not have occurred but for such alteration; (2) combined with any other products or elements not furnished by Seller if the alleged infringement would not have occurred but for such combination; (3) designed or manufactured in accordance with Buyer's designs, specifications, or instructions if the alleged infringement would not have occurred but for such Buyer designs, specifications, or instructions; or (4) designed or manufactured in compliance with standards issued by any public or private standards body if the alleged infringement would not have occurred but for compliance with such standards. In no event must Seller indemnify Buyer, or be liable in any way, for royalty's payable based on a per use basis, or any royalty basis other than a reasonable royalty based upon revenue derived by Seller from Buyer from sales of the infringing Products. THE FOREGOING STATES SELLER'S EXCLUSIVE OBLIGATION AND BUYER'S SOLE REMEDY WITH RESPECT TO CLAIMS OF INFRINGEMENT OF PROPRIETARY RIGHTS OF ANY KIND BASED ON THE SALE AND USE OF PRODUCTS, AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

(c) If any claim other than that described in (a) is made by a third party against Seller relating to or based upon this Contract, Buyer will indemnify, defend, and hold harmless Seller for any and all costs or expenses, including but not limited to attorney's fees.

### 12. PROPERTY AND OWNERSHIP RIGHTS

Unless otherwise mutually agreed in writing, the design, development, or manufacture by Seller of any Products or Services for Buyer will not be deemed a work made for hire and will not give to Buyer any patent, copyright, or other intellectual property right in the Products or Services, or any portion thereof. All such rights will remain the property of Seller. Unless otherwise



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agreed in writing, all tooling, fixtures, test equipment, models, patterns, molds, processing software and technology, and proprietary information of Seller, whether or not made for, obtained, or developed by Seller for the performance of this Contract, will remain the sole property of Seller; and the payment by Buyer of any costs or expenses relating to any of the foregoing (including non-recurring expenses), will not be deemed to grant Buyer any ownership interests therein.

### 13. CHANGES IN SPECIFICATIONS

Unless otherwise provided in writing, Seller reserves the right to change specifications of Products ordered by Buyer hereunder, provided such changes will not materially affect form, fit, or function.

### 14. EXCUSABLE DELAYS

In addition to any excuse provided by applicable law, Seller will not incur any liability for delay, non-delivery, or failure to perform any of its obligations herein arising from any event beyond Seller's control, whether or not foreseeable by either party, including but not limited to, delays of suppliers, labor disturbance or strike, war, fire, accident, adverse weather, inability to secure transportation, governmental act or regulation, inability of Seller to obtain materials, shortages of materials, and other causes or events beyond Seller's control, whether or not similar to those enumerated above.

### 15. ORDERS

(a) Each order placed by Buyer for Products or Services is subject to acceptance in writing by Seller. No order will alter this requirement.

(b) Buyer is liable for the costs of any changes to the goods, services, delivery schedule, or specifications requested by Buyer and agreed to by Seller including, but not limited to, cancellation or restocking charges, non-recurring engineering costs and other expenses, tooling and fixture charges, re-certification charges, re-work, wastage, and disassembly labor costs.

(c) All Products manufactured for Buyer, including all special materials and supplies necessary to perform the work specified, are non-cancelable and non-returnable.

### 16. TERMINATION

Except as otherwise agreed in writing, Buyer does not have the right to terminate or reschedule all or any portion or installment of the Products or Services covered by this Contract without the written consent of Seller.

### 17. BUYER'S DEFAULT

Payment under this Contract must be made when due notwithstanding any claim by Buyer. Failure by Buyer to pay any invoice when due, or otherwise perform Buyer's obligations under this Contract, will be considered a default by Buyer. In the event of a default, Seller will have the right to take possession of the Products delivered to Buyer, with or without notice, and to have all of the remedies of a secured party. In addition, Seller, at its option, by giving written notice to Buyer of its election to do so, may demand immediate payment of all Buyer's outstanding invoices and/or cancel any undelivered portions of Buyer's order. All rights and remedies of Seller are cumulative and may be exercised successively or concurrently without impairing Seller's security interest in the Products. Any costs incurred in the event of a default, including but not limited to attorneys fees, will be reimbursed to Seller by Buyer. Nothing in this section will waive or otherwise limit any other rights or remedies available to Seller according to law or otherwise.

### 18. LIMITATION ON ACTIONS

No action, regardless of form, arising out of this Contract may be brought by either party more than one year after the cause of action arose, or in the case of non-payment, not more than two years from the date of last payment.

### 19. GOVERNING LAW AND VENUE

This Contract will be construed and interpreted in accordance with and governed by the laws of the State of California, without regard to its conflict of law rules. The Buyer and Seller agree that the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) will not apply to this Contract, and its application is expressly excluded. Buyer and Seller agree that this Contract and the accompanying Order Acknowledgment will be deemed executed in California, payments



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under this Contract will be due and payable at a California address, and this Contract is to be fully performed in California. Buyer and Seller therefore agree to submit any dispute arising out of, referring to, or relating to this Contract to the sole and exclusive jurisdiction of either the Superior Courts of the State of California or the United States Federal District Courts in the State of California. To the greatest extent permitted by law, any action on this Contract will be brought and maintained in Sacramento County, California.

### 21. GENERAL

(a) This Contract constitutes the final, complete, and exclusive statement of the agreement of the Buyer and Seller with respect to the subject matter hereof, and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between Buyer and Seller.

(b) Buyer agrees to comply with all applicable export laws, regulations, and orders. Specifically, but without limitation, Buyer agrees that it will not resell, re-export, or ship, directly or indirectly, any Products or technical data in any form without obtaining appropriate export or re-export licenses. Buyer acknowledges that the applicable export laws, regulations, and orders may differ from item to item and/or from time to time.

(c) This Contract may not be assigned, modified, or terminated without Seller's prior written consent, and any attempt to assign, modify, or terminate without such consent will be absolutely void.

(d) No delay or omission to exercise any right, power, or remedy accruing to Seller upon breach or default by Buyer under this Contract will impair any such right, power, or remedy of Seller, or be construed as a waiver of any such breach or default, or any similar breach or default thereafter occurring; nor will any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

(e) No amendments to or modifications of the provisions of this Contract will be valid and binding upon Seller unless in writing and signed by an authorized representative of Seller.

(f) In the event that any provision is determined to be illegal or unenforceable, such determination will not affect the validity of the remaining provisions hereof, all of which will remain in full force and effect. Moreover, in the event any restrictive covenant in this Contract is found to be invalid or unlawful as a result of the scope of the restrictive covenant, the Buyer and Seller agree that the restrictive covenant will be amended and read in such a manner that the scope is as broad as legally permissible.

(g) This Contract and the terms and provisions of this Contract must not be construed in favor of or against any party by virtue of their role in drafting the terms of the Contract.

(h) All notices given under any provision of this Contract must be provided in writing and delivered to the other party at the addresses below. In the event either party changes addresses, it will be the responsibility of that party to notify the other of the change. Notice will be deemed effective (i) on the day it was sent, in the case of electronic mail; (ii) two days after being sent, in the case of delivery through Federal Express or another recognized overnight carrier; or (iii) five days after being deposited in the mail, in the case of delivery through U.S. Mail.