



SEA MACHINES

Terms and Conditions of Sale

PLEASE CAREFULLY READ THIS DOCUMENT. IT CONTAINS THE TERMS AND CONDITIONS OF SALE THAT GOVERN YOUR PURCHASE. THIS DOCUMENT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. REFERENCES TO “YOU” OR “YOUR” MEAN THE INITIAL PURCHASER OF THE GOODS AND/OR SERVICES FROM COMPANY.

These Terms and Conditions of Sale (including any policies or attachments referenced herein, this “Agreement”) apply to all offers and sales by Sea Machines Robotics, Inc. (“Company”) of goods and services purchased by you (“Goods” and “Services”, respectively). By signing below or placing your order for the Goods or Services, you accept and are bound to the terms and conditions of this Agreement.

1. Other Documents. All descriptions, quotations, proposals, offers, acknowledgments, acceptances and sales of Goods and Services by Company are subject to and will be governed exclusively by this Agreement. Any terms or conditions in addition to, or inconsistent with, those stated herein are hereby objected to. Notwithstanding the foregoing, if a written contract signed by both parties is in existence covering the sale of Goods or performance of Services covered herein, the terms and conditions of such contract will prevail to the extent any such term or condition is in conflict or inconsistent with the applicable term or condition hereunder. Company’s acceptance of any offer to purchase by you is expressly conditioned upon your assent to all of the terms and conditions stated in this Agreement. Acceptance of the Goods or Services will in all events constitute such assent. This Agreement may NOT be altered, supplemented, or amended by the use of any other document(s) unless otherwise agreed to in a written agreement signed by both you and Company.

2. Quotes; Payment Terms; Orders; Interest. Unless set forth otherwise on the applicable quotation, quotations are valid for a period of thirty (30) days following issuance. Terms of payment are within Company’s sole discretion and will be set forth on the applicable Company-issued quotation. Invoices are due and payable within the time period noted on your invoice (or thirty (30) days if no such time period is noted), measured from the date of the invoice. Company may invoice parts of an order separately. Company is not responsible for pricing, typographical or other errors in any offer by Company and reserves the right to cancel any orders arising from such errors. Company reserves the right to charge you a late penalty charge of 1.5% per month applied against undisputed overdue amounts or the maximum rate permitted by law whichever is less. Every 30 days thereafter you will continue to be charged an additional late penalty charge. Title to the Goods passes from Company to you only upon payment in full for such Goods.

3. Delivery and Shipping. Company will deliver the Goods and perform the Services within a reasonable time after Company’s acceptance of your purchase order. Company will strive to meet the deadline proposed, however will not be liable for any delay or loss or damage in transit. Company may, in its sole discretion, without liability or penalty, make partial shipments of Goods to you or partial performance of Services for you. Each partial shipment or performance will constitute a separate sale, and you will pay for the units shipped or services performed whether such shipment is in whole or partial fulfillment of your purchase order.

4. Shipping Charges; Taxes; Title; Risk of Loss. Unless set forth otherwise on the applicable quotation, shipment of Goods will be made EXW (Ex Works, Incoterms 2010) Company’s facility, at which time risk of loss will pass to you. Shipping and handling are additional unless otherwise expressly indicated in the applicable quotation. Unless you provide Company with a valid and correct tax exemption certificate applicable to your purchase of Goods or Services and the Goods ship-to and Services performance location, you are responsible for sales and other taxes associated with the order.

5. Warranties; Disclaimer.

a. Company grants to you a limited warranty for one (1) year from the date Company commissions an SM Good (as defined below) to you that such SM Good is free from defects in material and workmanship. For purposes of this Section 5, “SM Good” means any Good that is manufactured and sold by Company as part of the SM-Series product line, and expressly excludes any ancillary sensors or components (e.g., antennas, receivers, interfaces, etc.). For any breach of the warranty contained in this Section, your sole and exclusive remedy, and Company’s entire liability and obligation, will be, at Company’s election, to repair or replace the applicable SM Good, or if Company is unable to repair or replace such SM Good after using commercially reasonable efforts, to refund the applicable fees paid following the return of the applicable SM Good to Company. Company-supplied parts must be installed by a Company factory technician or dealer, and operation confirmed for this warranty to remain in effect, unless otherwise and agreed to in writing by Company. Any SM Good replaced as a part of this warranty will be covered under this warranty for the remainder of the original warranty term. Notwithstanding anything to the contrary herein, the foregoing warranty is void and will not apply to any defects resulting from: (i) any unauthorized modification of an SM Good; (ii) an application or installation method employed in connection with the SM Good if not approved in writing by Company; (iii) any third-party equipment, hardware or software, even if installed, connected or loaded onto an SM Good; or (iv) acts of nature such as, but not limited to, fire, flood, wind and lightning.

b. TO THE FULLEST EXTENT ALLOWED BY LAW, EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE EULA (AS DEFINED BELOW), COMPANY DOES NOT MAKE ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED, CONDITIONS, OR REPRESENTATIONS TO YOU, ANY OF YOUR AFFILIATES OR ANY OTHER PARTY WITH RESPECT TO THE GOODS OR SERVICES OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, OR STATUTORY. EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE EULA, THE GOODS AND SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” INCLUDING WITH ALL FAULTS AND ERRORS AS MAY OCCUR THEREIN. WITHOUT LIMITING THE

FOREGOING, ANY WARRANTY, CONDITION, OR REPRESENTATION, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITH RESPECT TO OPERABILITY, USE, ACCURACY, VALIDITY, MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND DISCLAIMED. COMPANY DOES NOT WARRANT THAT THE GOODS OR SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, OR THAT GOODS OR SERVICES WILL OPERATE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. THE USE OF THE GOODS AND SERVICES IS AT THE SOLE DISCRETION AND RISK OF YOU AND/OR YOUR EMPLOYEES, AGENTS, SUBCONTRACTORS, SUCCESSORS, AND ASSIGNS. COMPANY DOES NOT MAKE ANY WARRANTIES REGARDING THIRD PARTY SOFTWARE, WHICH MAY BE SET FORTH IN A SEPARATE AGREEMENT BETWEEN YOU AND THE LICENSOR OF SUCH THIRD PARTY SOFTWARE. YOU ACKNOWLEDGE AND AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR ANY THIRD PARTY SOFTWARE AND ANY FAILURE THEREOF. Some states may not allow the exclusion or limitation of warranties, so the above limitation or exclusion may not apply to you. This Agreement gives you specific legal rights and obligations, and you may also have other legal rights or obligations which vary from state to state. The law regarding warranties can vary from state to state, and you may have other legal rights or obligations existing under state law.

6. Indemnification. To the fullest extent allowed by law, you hereby agree to indemnify and hold harmless Company and its employees, agents, successors and assigns, from and against any and all loss, damage, liability, and expense arising out of, in connection with, or resulting from any claim that may be made against Company by any person to the extent resulting from: (a) your failure to comply with your obligations under this Agreement or any breach of your covenants herein; (b) any negligent, reckless, or willful acts or omissions by your or your employees, agents, subcontractors, successors, or assigns; (c) any modification or improper use of the Goods by or on behalf of you or your employees, agents, subcontractors, successors, or assigns; (d) any knowing violation of the law on the part of you or your employees, agents, subcontractors, successors, or assigns; and (e) installation of the Goods.

7. Tuning. The Goods are subject to a tuning procedure that is programmed or determined specific to each individual vessel application and is further subject to vessel hull design specifications and installed vessel machinery and equipment. You hereby agree to abide by any tuning that is determined by Company at its sole discretion. Without limiting Sections 5 and 9, you acknowledge and agree that changing any tuning settings may damage the vessel and/or its machinery/equipment and that Company is not responsible for any change of vessel performance due to the installation of the Goods or any tuning or tuning settings or any Services.

8. Hardware Integration. The Goods may require the use of third party interfaces in order to operate or communicate with certain machinery and electronics. Without limiting Sections 5 and 9, Company is not responsible for (a) any damages resulting from such third party interfaces; (b) the breach of any warranty of any interfaced machinery or component due to the physical or

electrical integration with the Goods, the actual use or influence of the Goods or any Services; or (c) the infringement or violation of any software rights or rights in other intellectual property that may be involved in integration of customers machinery or equipment with the Goods or through any Services.

9. Limitation of Liability. TO THE FULLEST EXTENT ALLOWED BY LAW, COMPANY'S AND ITS THIRD-PARTY VENDORS' SOLE LIABILITY, AND YOUR SOLE AND EXCLUSIVE REMEDY, FOR ANY BREACH OF WARRANTY OR OTHER MATTER ARISING UNDER OR RELATED TO THIS AGREEMENT WILL BE THE REMEDIES AVAILABLE PURSUANT TO COMPANY'S EULA. COMPANY AND ITS THIRD-PARTY VENDORS WILL HAVE NO LIABILITY FOR ANY MONETARY DAMAGES OR OTHER RELIEF ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, IN CONTRACT, TORT OR OTHERWISE. IN ANY EVENT, IF THE LIMITATION IMPOSED BY THE PRECEDING SENTENCE IS DETERMINED TO BE INAPPLICABLE OR UNENFORCEABLE IN ANY PARTICULAR CASE, COMPANY'S AND ITS THIRD-PARTY VENDORS' MAXIMUM TOTAL LIABILITY FOR ALL MATTERS ARISING UNDER OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, IN CONTRACT, TORT OR OTHERWISE, WILL BE LIMITED TO THE AMOUNT OF THE FEES PAID BY YOU FOR THE APPLICABLE GOODS. IN ANY EVENT, NEITHER COMPANY NOR ANY OF ITS THIRD-PARTY VENDORS WILL UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER INDIRECT DAMAGES IN CONNECTION WITH ANY MATTER ARISING UNDER OR RELATED TO THIS AGREEMENT, EVEN IF COMPANY WAS AWARE OF THE POSSIBILITY OF SUCH DAMAGES. Some states may not allow the exclusion or limitation of liability or certain damages, so the above limitation or exclusion may not apply to you. This Agreement gives you specific legal rights and obligations, and you may also have other legal rights or obligations which vary from state to state.

10. End User License Agreement. You hereby acknowledge and agree that Company's End User License Agreement, currently made available at <http://sea-machines.com/eula> (the "EULA"), will govern the use of the Goods and, to the extent any proprietary computer software program(s) owned by Company is embedded or installed in the Goods, such software. Subject only to the rights expressly granted under the EULA, Company and its licensors retain all proprietary rights and title (including without limitation all intellectual property rights) to such software and any modifications thereof. No ownership of any part of such software is hereby transferred to you. To the extent the Order Form indicates that you are an authorized builder or dealer, upon any sale of the Goods to a customer, you will and hereby do assign the EULA governing the use of the applicable software to such customer.

11. Confidentiality. If the parties have entered into a written non-disclosure agreement, the terms of such agreement will govern the exchange of information under this Agreement. If the parties have not entered into a written non-disclosure agreement, then you agree for a period of five (5) years following the disclosure of any Confidential Information by Company to you, you will hold in strictest confidence, and will not use or disclose

to any third party, any Confidential Information of Company. The term "Confidential Information" means all non-public information that Company designates as being confidential, or which, under the circumstances of disclosure ought to be treated as confidential and includes, without limitation, the terms and conditions of this Agreement, Company quotations, information relating to released or unreleased Company products, goods or services, any tuning settings and information received from others that Company is obligated to treat as confidential. "Confidential information" will not include information that was known to you prior to Company's disclosure to you, or information that becomes publicly available through no fault of yours. You may from time to time provide suggestions, comments or other feedback ("Feedback") with respect to the Goods and Services and other products, goods or services of Company. You agree that all Feedback is and will be given entirely voluntarily. Feedback, even if designated as confidential by you, will not, absent a separate written agreement, create any confidentiality obligation for or upon Company. Company will be free to use, disclose, reproduce, license and otherwise distribute and exploit the Feedback provided to it as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property or otherwise.

12. Compliance with Law. You will comply with all laws (including federal, state and local laws and regulations, orders and ordinances) now or hereafter enacted, of any jurisdiction in which performance occurs or may occur hereunder. Without limitation, you hereby acknowledge that the rights and obligations of this Agreement are subject to the laws and regulations of the United States relating to the export of products and technical information, and you will comply with all such laws and regulations. You will be solely responsible for its violations of any of the foregoing.

13. Assignment. You may not assign this Agreement, or sublicense any of the rights granted herein, in whole or in part, without the prior written consent of Company, which consent may be withheld at the sole discretion of Company. Any attempt by Customer to assign or transfer any of the rights, duties or obligations of this Agreement without Licensor's consent will be null and void. Any attempted assignment, delegation or transfer by you in violation hereof will be null and void. Subject to the foregoing, this Agreement will be binding on the parties and their successors and assigns.

14. Miscellaneous. Company will have no liability under this Agreement for Company's failure or delay in performing any of the obligations imposed by this Agreement to the extent such failure or delay is the result of any event beyond Company's control. This Agreement contains the entire understanding of the parties about its subject. It supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter, and prevails over any conflicting terms or conditions contained on printed forms submitted with purchase orders, sales acknowledgments or quotations. The

headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. This Agreement may not be amended or modified, in whole or part, except by a writing signed by duly authorized representative of both parties. No provision or part of this Agreement or remedy hereunder may be waived except by a writing signed by a duly authorized representative of the party making the waiver. Any such waiver will be narrowly construed to apply only to the specific provision and under the specific circumstances for which it was given, and will not apply with respect to any repeated or continued violation of the same provision or any other provision. Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. Nothing in this Agreement will be construed to place Licensor and Customer in an agency, employment, franchise, joint venture, or partnership relationship. Neither party will have the authority to obligate or bind the other in any manner, and nothing herein contained will give rise or is intended to give rise to any rights of any kind to any third parties. Neither party will represent to the contrary, either expressly, implicitly or otherwise. In the event that any provision of this Agreement is found to be unenforceable, such provision will be reformed only to the extent necessary to make it enforceable, and such provision as so reformed will continue in effect, to the extent consistent with the intent of the parties as of the effective date hereof. If any provision or part of this Agreement will, to any extent, be or become invalid, illegal or unenforceable, the remainder of this Agreement will continue in effect, and every other provision of this Agreement will remain valid and enforceable to the full extent permitted by applicable law. In such event, the invalid or unenforceable provision will be reformed only to the extent necessary to make it enforceable, and such provision as so reformed will continue in effect, to the extent consistent with the intent of the parties as of the effective date hereof. All notices under or related to this Agreement will be in writing and will reference this Agreement. Notices will be deemed given when: (i) delivered personally; (ii) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iii) one (1) day after deposit with a commercial overnight carrier, with written verification of receipt. All communications will be sent to the addresses set forth on the Order Form or such other addresses designated pursuant to this Section 14. This Agreement is made under and will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of laws principles, and specifically excluding from application to this Agreement the United Nations Convention on the International Sale of Goods. Any legal proceedings under or related to this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in the Commonwealth of Massachusetts. Each party submits to the personal jurisdiction of, and waives any objection against jurisdiction by, such courts.