1. **Acceptance.** These terms and conditions of sale (“Terms”) are applicable to all quotations, purchase orders and/or requests for service (collectively, “Orders”), and are the only terms and conditions applicable to the sale or other provision of Seller’s products (“Products”) and services (“Services”) to Buyer, except those that relate to prices, quantities, delivery schedules and the description and specifications of the Products and/or Services. Seller hereby objects to and rejects any other terms and conditions appearing on, incorporated by reference in, or attached to, Buyer’s Orders. Buyer’s acceptance of Products and/or Services requested in an Order will constitute its acceptance of these Terms.

2. **Billing and Payment.**
   (a) Payment is due within 30 days of the later of Buyer’s receipt of invoice or delivery of Products and/or Services unless otherwise agreed in writing by Seller. Seller reserves the right to assess a monthly service charge on overdue accounts. Buyer may require payment in advance if in Seller’s opinion Buyer is not creditworthy. Any certificates or other evidence of applicable exemptions to such taxes or duties must be provided to Seller prior to invoicing or such taxes or duties will be charged to Buyer; provided, however, if Seller does not collect such items from Buyer and is later requested or required to pay the same to any taxing authority, Buyer will promptly pay to Seller the amount of such taxes or duties, plus any interest, penalties and administrative costs that may be incurred by Seller in connection therewith.
   (b) Unless otherwise specifically indicated by Seller, prices quoted are exclusive of, and Buyer agrees to pay, shipping and related fees, foreign, federal, state, local excise, sales, use, personal property or any other taxes or duties, except only taxes based on Seller’s income. Any certificates or other evidence of applicable exemptions to such taxes or duties must be provided to Seller prior to invoicing or such taxes or duties will be charged to Buyer; provided, however, if Seller does not collect such items from Buyer and is later requested or required to pay the same to any taxing authority, Buyer will promptly pay to Seller the amount of such taxes or duties, plus any interest, penalties and administrative costs that may be incurred by Seller in connection therewith.
   (c) Payments are not subject to setoff or recoupment for any present or future claim Buyer may have.
   (d) Pricing is subject to change only by Seller upon any change in information and/or requirements during the course of an Order. Otherwise all pricing is firm. Seller does not represent that its prices will be the lowest charged to any other customer or comparable to prices offered by any third party.

3. **Force Majeure.** A Force Majeure Event is defined as an event beyond Seller’s reasonable control, including, but not limited to, acts of God, war, fire, strikes, epidemic, embargo, acts of government or other civil or military authority, war, riots, insurrection, labor disputes or walkouts, transportation difficulties, components or equipment inadequately specified by Buyer, specifications submitted by Buyer; and (3) causes beyond Seller’s control, including, but not limited to, misaligned, mislabeled, or malfunctioning existing equipment, inadequate support systems, or any necessary paper work or documentation, resulting in additional costs to Seller. Seller reserves the right to terminate any Orders without further obligation if it determines it is not commercially practicable to meet the required specifications.

4. **Place of Delivery and Method of Tender.**
   (a) Delivery terms are FCA Seller’s Plant (Incoterms 2010) unless otherwise agreed to in writing by Seller. Seller will arrange for an appropriate means of transportation of Products. Buyer agrees to pay all transportation charges incurred after Products are delivered to the carrier unless otherwise agreed in writing by Seller. (b) Buyer shall bear all special expenses, including special handling, packaging and additional freight charges, if Buyer furnishes special transportation instructions.
   (c) When “export packing” is required, Buyer shall be responsible for any extra charges such as extra fees, labor and incidental expenses.
   (d) Orders for Products to be exported are subject to Seller’s ability to obtain export licenses and other necessary papers within a reasonable period. Buyer will furnish all Consular and Customs declarations and will accept and bear all responsibility for penalties resulting from incorrect or incomplete declarations. Buyer is responsible for all Products or any products or items which incorporate the Products if such re-export violates local or U.S. export laws.

5. **Installation: Maintenance.** Unless otherwise specified in writing on a quotation provided by an authorized representative of Seller, Buyer assumes responsibility for installation of Products. Seller agrees to make installation and on-site technical support services available at Seller’s then prevailing rates. Buyer is responsible for all additional charges/fees related to delays due to its failure to comply with its portion of the installation plan (e.g., not providing agreed upon access to the product/package/line, not complying with pre-installation checklist). Installation does not include mechanical, electrical, pneumatic, water or ventilating tie-ins to existing systems. Buyer assumes responsibility for all Product maintenance. Seller shall make maintenance services available at its then prevailing rates.

6. **Limited Warranty**
   (a) Seller warrants the Products and Services to Buyer in accordance with its standard warranty policies, available on Seller’s web site at www.videojet.com. THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO INFRINGEMENT, DESIGN, MATERIAL, QUALITY, DESIGN, PERFORMANCE OR OTHER PARTICULAR PURPOSE AND NON-INFRINGEMENT. No employee or agent of Seller, other than an officer of Seller by way of a signed writing, is authorized to make any warranty in addition to the foregoing. Certain printing applications may be regulated by the United States Food & Drug Administration or by laws in other jurisdictions. These may include applications where ink may come into contact with medical devices, pharmaceuticals, cosmetics, food or other substances intended for consumption, or veterinary health products. It is the responsibility of the Buyer to launder or otherwise prepare any such, unless otherwise expressly provided in a Care Package.
   (b) Replacement parts will be new or equivalent to new parts, at no extra charge to Buyer. Parts being replaced will be the property of Seller. Buyer acknowledges certain parts may be subject to discontinuance by the manufacturer, in which event Seller’s obligation shall be limited to making reasonable efforts to replace such discontinued parts with an equivalent part.
   (c) Seller’s Care Packages for Service and/or Support services during Seller’s normal business hours, 8:00 a.m. to 4:30 p.m. local time, Monday through Friday, excluding Seller holidays. Seller will provide Care Package Services to Buyer’s premises unless it is necessary to remove Equipment, or a portion thereof, to Seller’s repair depot. Seller shall obtain Buyer’s approval prior to removing Equipment. Buyer agrees to pay all transportation fees incurred in connection with the installation of replacement parts.
   (d) The following services are not included in Care Packages and Buyer shall be charged separately for any such service, unless otherwise expressly provided in a Care Package: (1) maintenance of accessories or attachments; (2) maintenance of Equipment if an in-house operator is not provided; (3) maintenance of any necessary paper work or documentation resulting in additional costs to Seller.

7. **Hazardous Materials.** Buyer acknowledges that certain materials covered by this Agreement may currently or later be considered hazardous materials under various laws and regulations. Buyer agrees to familiarize itself (without reliance on Seller except as to the precision and completeness of the documentation furnished by Seller), with any hazardous such materials, and their applications and the containers in which such materials are shipped, and to inform and train its employees and customers as to such hazards. Buyer shall hold Seller harmless against any claims by its agents, employees or customers relating to any such product or its application. Buyer agrees not to remove, destroy, alter, or tamper with any RECITALS FOR FITNESS FOR USE, failure to meet written specifications or the inaccuracy of specific information furnished by Seller.

8. **Products Not for Resale.** Buyer represents and warrants that it is purchasing the Products for its own use and not for resale purposes. If Buyer breaches the foregoing, Seller may: (a) void, eliminate and/or refuse to continue to make available to Buyer any volume or other type of discount, rebate or preferential payment term; (b) cancel the Order and/or any other Order with Buyer; (c) charge Buyer’s account for all charges, duties and is later requested or required to pay the same to any taxing authority, Buyer will promptly pay to Seller the amount of such taxes or duties, plus any interest, penalties and administrative costs that may be incurred by Seller in connection therewith.

9. **13. Delay.**
   (a) Delivery dates are approximate and not guaranteed. Buyer will not be liable for any damages or costs resulting from any delays in performance.
   (b) Buyer may terminate a non-custom Order without penalty only for delays in excess of 30 days, and only as to the undelivered portion.

10. **14. Cancellation.** Except as otherwise provided herein, all sales are final. Buyer may not cancel an Order. Seller reserves the right to assess a monthly service charge of one and one half percent (1.5%) on overdue accounts. Seller may require payment in advance if in Seller’s opinion Buyer is not creditworthy.

11. **15. Warranty.** Except for Buyer’s payment obligations, neither party shall be liable for delays in performance, in whole or in part, or any loss, damage, cost or expense, resulting from causes beyond its reasonable control, such as acts of God, fire, strikes, epidemics, embargos, acts of government or other civil or military authority, war, riots, lockouts, labor disputes or walkouts, transportation difficulties, components or equipment inadequately specified by Buyer, specifications submitted by Buyer; and (3) causes beyond Seller’s control, including, but not limited to, misaligned, mislabeled, or malfunctioning existing equipment, inadequate support systems, or any necessary paper work or documentation, resulting in additional costs to Seller. Seller reserves the right to terminate any Orders without further obligation if it determines it is not commercially practicable to meet the required specifications.

12. **16. Governing Law; Venue; Actions.** This Agreement is governed by and construed in accordance with the laws of the State of Illinois without regard to conflicts of laws provisions. The parties consent to the sole and exclusive venue and jurisdiction of the federal and state courts situated in or having jurisdiction over DuPage County, Illinois. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. Any action by Buyer for loss or damage arising from or related to the Products and/or Services must be commenced within the earlier of one (1) year from the date of delivery or occurrence of the event, or such claim will be forever barred. If Seller substantially prevails in any legal dispute, Buyer shall pay all reasonable costs incurred by Seller, including but not limited to collection costs, attorneys’ fees and costs of legal action.

13. **Entire Agreement; Modifications; Waiver.** These Terms are the entire agreement between the parties, there being no other promises, terms, conditions, or obligations, relative to the subject matter hereof. No modification of these Terms shall be binding upon Seller unless made in writing and signed by an authorized representative of Seller. No waiver by Seller of any of its rights hereunder. If any term herein is declared invalid or unenforceable, the remainder of these Terms will not be affected thereby and will continue to be valid and enforceable to the fullest extent permitted by law. Any modifications hereto must be in writing and signed by both parties. Seller’s failure to strictly enforce any of these terms shall not be considered a waiver of any of its rights hereunder.

14. **THE FOLLOWING ADDITIONAL PROVISIONS APPLY TO ANY START-UP CARE OR SERVICE CARE PACKAGE (“CARE PACKAGE”) SOLD WITH THE EQUIPMENT:**

15. **18. Services.**
   (a) Seller will provide maintenance services for the equipment covered in the respective Care Package (“Equipment”) and repair services for the Equipment if the Equipment fails to conform to Seller’s specifications (collectively, “Care Package Services”).
   (b) Replacement parts will be new or equivalent in performance to new parts, at no extra charge to Buyer. Parts being replaced will be the property of Seller. Buyer acknowledges certain parts may be subject to discontinuance by the manufacturer, in which event Seller’s obligation shall be limited to making reasonable efforts to replace such discontinued parts with an equivalent part.
   (c) Seller will provide Care Package Services during Seller’s normal business hours, 8:00 a.m. to 4:30 p.m. local time, Monday through Friday, excluding Seller holidays. Seller will provide Care Package Services to Buyer’s premises unless it is necessary to remove Equipment, or a portion thereof, to the Seller’s repair depot. Seller shall obtain Buyer’s approval prior to removing Equipment. Seller agrees to pay all transportation fees incurred in connection with the installation of replacement parts.
   (d) The following services are not included in Care Packages and Buyer shall be charged separately for any such service, unless otherwise expressly provided in a Care Package: (1) maintenance of accessories or attachments; (2) maintenance of Equipment if an in-house operator is not provided; (3) maintenance of any necessary paper work or documentation resulting in additional costs to Seller.

ensure compliance with any such regulations.

7. Software License. Seller grants Buyer a non-transferable, non-sublicenseable, non-exclusive, license to use software contained or embedded in the Products (“Software”) solely in conjunction with operation of Products as permitted by Seller. All other rights, title and interest in the Software shall remain the exclusive property of Seller or its licensors. Buyer is prohibited from (a) reproducing the Software, any component thereof or any documentation related thereto, and (b) decompiling, disassembling, compiling or reverse engineering the Software or otherwise attempting to gain access to the Software source code. Buyer shall not use, duplicate or disclose any technical data or any information regarding the Software for any purposes. These rights are subject to any underlying license to Seller from a third party of any component or application of the Software.

8. Limitation of Buyer's Remedies. In NO EVENT WILL SELLER BE LIABLE FOR SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, THIRD PARTY OR PUNITIVE DAMAGES INCLUDING WITHOUT LIMITATION THOSE BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL, EQUITABLE OR STATUTORY CLAIM, CAUSE OF ACTION OR LEGAL THEORY. IN ANY EVENT OF LIABILITY, SELLER'S LIABILITY SHALL BE LIMITED TO ACTUAL DAMAGES TO THE EXTENT DIRECTLY AND SOLELY CAUSED BY SELLER'S MATERIAL BREACH. EXCEPT AS OTHERWISE PROHIBITED BY LAW, SELLER'S MAXIMUM LIABILITY HEREUNDER REGARDLESS OF LEGAL THEORY WILL NOT EXCEED PRICE OF SELLER'S PRODUCTS AND/OR SERVICES GIVING RISE TO THE CLAIM. IN NO EVENT WILL SELLER BE REQUIRED TO INDEMNIFY BUYER OR ANY OTHER PARTY.

9. Seller's Remedies. Without waiving any other rights or remedies available to it under applicable law or otherwise, Seller may defer performance hereunder or under or pursuant to any other contract with Buyer, until all past-due accounts of Buyer are fully satisfied. Seller's rights and remedies in these Terms are in addition to, and not in lieu of, any other rights or remedies Seller may have at law or in equity.

10. Proprietary Rights. Seller will retain all intellectual property rights to designs, drawings, patterns, plans, specifications, technology, technical data and information, technical processes and business methods, whether patentable or not, arising from the sale or other provision of Products and/or Services to Buyer. Buyer agrees not to enforce against Seller or Seller's customers any patent rights that include any system, process or business method utilizing or otherwise relating to Products and/or Services delivered pursuant to an Order. Seller will not furnish any data, other than installation and specification data, unless it is specifically requested in an Order. The parties will separately negotiate rights and price for such data.

with Equipment; and (6) de-installation or reinstallation of Equipment or any part thereof at Buyer's request. Care Packages do not cover repairs or maintenance necessitated by (i) Buyer misconduct, accident, neglect or misuse; (ii) failure of installation site to conform to Seller's applicable specifications; (iii) failure or inadequacy of electric power, humidity or air control; (iv) Buyer's use of supplies and other consumables not approved by Seller for use with Equipment; (v) Buyer's failure to follow operating procedures provided by Seller; (vii) service or maintenance performed by a third party or an unauthorized representative of Seller; and (viii) a Force Majeure Event.

(e) The Rate identified in each Care Package is based on Seller performing Care Package Services at the location identified in the Care Package. If Buyer relocates Equipment or any part thereof, Seller may increase the Rate if such relocation affects Seller's cost of performing its obligations hereunder.


Buyer shall, at its expense: (1) exercise reasonable care in operation and normal maintenance of Equipment; (2) operate Equipment within Seller's published specifications (including, without limitation, all environmental specifications); (3) maintain Equipment in conformance with Seller's maintenance standards, which shall include following and performing Seller's recommended customer care and cleaning program between calls of Seller's service representative; (4) properly maintain installation site and operating environment; and (5) provide necessary utility services for use of Equipment in accordance with Seller's specifications.

20. Term.

(a) The effective date and term of a Care Package shall be as identified in the Care Package or Order. If the Care Package is a Start-Up Care Package, the term shall be 9 months from the effective date.

(b) Either party may terminate a Care Package at any time and for any reason upon 30 days prior written notice to the other party. However, the parties acknowledge and agree that the term of each Care Package is the essence of Seller's pricing and Seller will suffer losses if the Care Package is terminated prior to the natural expiration of the term. In the event of early termination, the Buyer shall pay an early termination fee to reimburse Seller for such losses, which fee is to be construed as liquidated damages and not as a penalty. The early termination fee will be computed as follows: Months Remaining in Care Package Term x Monthly Rate (Pro-Rated for Annual/Quarterly Agreements) x 65%. This early termination fee shall not apply to any renewal terms or in the event of termination by Seller pursuant to this paragraph.