



**TERMS AND CONDITIONS OF SALE
FOR NEPTRONIC SOFTWARE, CLOUD SaaS SOFTWARE
AND HARDWARE PRODUCTS**

1. SCOPE AND DEFINITIONS

1.1 Scope

These Terms and Conditions apply to all purchases of Neptronic Software, Cloud SaaS Software and Hardware Products, regardless of the mode in which such purchases are made including, without restriction, orders placed online, through an agent or authorized distributor or directly with Neptronic.

For purchases of Neptronic's standard non-software products, please consult the *Terms and Conditions of Sale for Neptronic products other than software and hardware* by visiting one of the Neptronic Websites listed below which corresponds to the product you wish to purchase.

The Customer hereby acknowledges having read and understood these Terms and Conditions and agrees to be bound by the terms hereof as of the moment the Customer submits a request for quotation or a Purchase Order, receives an Order Confirmation, an invoice or confirmation of shipment of the Product(s), whichever occurs first.

1.2 Interpretation and Definitions

Interpretation

The words of which the initial letter is capitalized have meanings defined under the following conditions.

Definitions

Whenever used in this Agreement, the terms referred to below shall have the following meanings:

“**Affiliates**” means any of the entities that control, are controlled by or are under common control of the Parties. For purposes of this definition, “control” shall mean the possession, directly or indirectly, of a majority of the voting power of such entity (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).



“**Agreement**” means the Terms and Conditions together with any other agreement, document, addendum or schedule forming an integral part hereof.

“**Cloud SaaS Software**” means a web hosting cloud-based software known as “software as a service” or “SaaS”, consisting of providing the necessary network infrastructure, third party software, database administration services and connectivity point at the Neptronic designated cloud site, developed and distributed by Neptronic and made available to the Customer and/or End User under the terms contained in this Agreement.

“**Customer**” or “**you**” means the person, company, firm, enterprise or other entity identified on a request for quotation, Purchase Order, Order Confirmation or invoice with respect to the purchase of Product(s).

“**Customer Data**” means any non-public data, information or material uploaded by the Customer or End User to and stored in its account through Cloud SaaS Software.

“**Confidential Information**” means the Intellectual Property and trade secrets and any other information of proprietary or confidential nature, which belongs to Neptronic.

“**Electronic Purchase Orders**” means Purchase Orders placed online on any of the Neptronic Websites applicable to different Products.

“**End User**” means any person, including the Customer, company, firm, enterprise or other entity authorized to use the Software, the Cloud SaaS Software or the Hardware for their internal use and not for reselling or sublicensing.

“**End User License Agreement**” or “**EULA**” means the license agreement between Neptronic and an End User that grants the right to use the Hardware, the Software or the Cloud SaaS Software.

“**Force Majeure**” means an event or occurrence due to causes beyond either Party’s reasonable control including, but not limited to, strike, war, riots, acts of civil or military unrest or insurrection, judicial actions, acts of God, fire, epidemic or pandemic, or any other casualty or natural calamity.

“**Hardware**” means Edge computers or any other similar computer or device in the Edge controller family of Products used in connection with the Software.

“**Incoterms 2020**” means *Incoterms 2020*, published by the International Chamber of Commerce.



“Intellectual Property or Intellectual Property Rights” means the rights and title to all intellectual property owned by Neptronic, including, without limitation, (a) all inventions and improvements thereto whether patentable or not, (b) patents, patent applications and disclosures, (c) all copyrights, copyrightable works and all applications, registrations and renewals in connection therewith, (d) trademarks (e) service marks, (f) trade names, (g) logos, (h) trade secrets, (i) industrial designs, (h) licenses and sublicenses and (h) know-how, and any related applications and/or registrations thereof in any jurisdiction.

“Neptronic Website” means any of the following Neptronic’s websites applicable to different sets of Products:

<http://www.neptronic.com>
<http://www.humidisoft.com>
<http://www.neptronicdigital.com>
<http://www.neptroniccloud.com>
<http://www.nepconnect.com>

as well as any other Neptronic website which may be constructed in the future.

“Order Confirmation” means a Purchase Order, which has been accepted in writing by Neptronic.

“Parties” means collectively Neptronic and the Customer, each being referred to individually as a **“Party”**.

“Privacy Policy” means a privacy policy statement issued by Neptronic and available on its website, regarding the treatment and processing of the Customer Data and the security measures implemented with respect thereto.

“Product(s)” means, for the purposes of this Agreement, the Software, Cloud SaaS Software and Hardware designed, developed and distributed by Neptronic relating to the HVAC industry, as shown on the Neptronic Website, as well as any other such type of product in the software and hardware family that may be made available for distribution by Neptronic.

“Purchase Order” means a purchase order submitted by the Customer to Neptronic regardless of the mode in which it is conveyed including Electronic Purchase Orders, orders placed through an agent or authorized distributor or orders placed directly with Neptronic, unless the Parties agree otherwise in the Agreement;



“**Reseller**” means the Customer who acquires Product(s) for the purposes of further distribution to an End User.

“**SaaS Agreement**” means an agreement between Neptronic and the Customer setting out terms and conditions regarding the use of the Cloud SaaS Software and related SaaS services.

“**Software**” means the software designed and developed by Neptronic and distributed alone, or preinstalled on the Hardware, used and applied for the purposes of control and operation of HVAC equipment, as more fully described on the Neptronic Website applicable to this Product, and includes updates, upgrades, error corrections, changes and revisions delivered by Neptronic to the Customer under this Agreement.

“**Terms and Conditions**” means these *Terms and Conditions of Sale for Neptronic Software, Cloud SaaS Software and Hardware Products*.

- 1.3 The Customer hereby acknowledges having read and understood the present Agreement and agrees to be bound by the provisions hereof which the Customer accepts either by signing and returning Neptronic’s quotation, by sending a Purchase Order to Neptronic, by receiving an Order Confirmation, by submitting instructions to Neptronic to ship the Product or by accepting or paying for the Product.
- 1.4 In the event of a conflict between any provision contained in these Terms and Conditions, the Purchase Order, Order Confirmation or any other document, the provisions of these Terms and Conditions shall prevail unless otherwise expressly agreed in writing between the Parties.
- 1.5 All terms of the purchase and sale of Product(s) between the Customer and Neptronic including, without limitation, price, delivery, transfer of risk, insurance, etc, shall be interpreted and governed in accordance with the terms of *Incoterms 2020*, unless otherwise expressly agreed in writing between the Parties.

2. CUSTOMER PURCHASE ORDERS, ORDER CONFIRMATION AND CANCELLATION

- 2.1 Neptronic shall not be deemed to have accepted a Purchase Order until Neptronic provides an Order Confirmation in writing to the Customer.
- 2.2 A Purchase Order, once accepted by Neptronic in the Order Confirmation shall not be cancellable regardless of the mode in which it is placed, whether online, through an agent, authorized distributor or directly with Neptronic. All forms of conveyance of a Purchase Order shall be equally binding on the Customer.



2.3 Neptronic reserves the right to accept or reject any Purchase Order, in whole or in part, at Neptronic's sole discretion.

2.4 The Customer shall be responsible for verifying all information contained in the Order Confirmation and shall immediately notify Neptronic in writing of any discrepancy or inconsistency therein. Any correction or change to be made to the Order Confirmation shall be subject to acceptance of same by Neptronic by the issuance of a revised Order Confirmation confirming such change or correction. Furthermore, without limiting the foregoing and subject to the provisions of Section 2.2 above, should the Customer wish to modify any of the terms of the Purchase Order concerning, without limitation, Product(s) or any services relating thereto such as, for example, delivery, packaging, etc., such requested modifications shall be subject to Neptronic's acceptance by way of a subsequent Order Confirmation confirming same.

2.5 The delays for processing Purchase Orders vary depending on the geographical area. The minimum delays required for processing Purchase Orders are:

- For Purchase Orders within North America: 48 hours
- For International Purchase Orders: 72 hours
- For Electronic Purchase Orders: 24 hours

Neptronic cannot commit to the above delays for any Product which involves customization as per the Customer's requirements and specifications or non-standard software or hardware. For such products you should contact Neptronic's representative.

3. APPLICATION, INSTALLATION AND OPERATION OF PRODUCTS

3.1 Neptronic makes no representations whatsoever with respect to the ordered Products and its suitability for the purposes for which the Customer wishes to purchase them, the Customer hereby renouncing to any claim against Neptronic in this regard. Consequently, the Customer shall, prior to placing a Purchase Order, ensure that the Product and its specifications are suitable in all respects for the Customer's intended use and waives any claim against the Neptronic in this respect.

3.2 The Customer confirms having the necessary knowledge and skills for the purposes of a proper installation and operation of the Product, failing which, the Customer shall hire the services of a competent professional IT technician for that purpose. The Customer acknowledges and agrees that Neptronic shall not be liable for an improper installation or operation of the Product and waives any claim against Neptronic in this regard.

4. PRICES

Unless otherwise expressly stated by Neptronic in the Order Confirmation:



- 4.1 except as otherwise expressly agreed in writing the Parties, all prices are in U.S. Dollars and are net and are exclusive of all taxes, charges, tariffs, transportation costs, custom duties and import fees and shall be valid for a period of thirty (30) days from the date of quotation, subject to Section 4.3 below;
- 4.2 prices quoted are EXW (Ex Works, Neptronic's facility, Montreal) as per *Incoterms 2020*;
- 4.3 prices shall be subject to adjustment due to fluctuation in exchange rates, change in costs of materials or labor, governmental regulations, shipment arrangements or other factors beyond Neptronic's control;
- 4.4 the minimum amount required to place a valid Purchase Order is Fifty Dollars (\$50.00) and the minimum shipping and handling charge is Five Dollars (\$5.00).
- 4.5 unless confirmed in the Order Confirmation in accordance with this Agreement, prices published in catalogs, bulletins, on websites or price lists are subject to change, at Neptronic's discretion, upon thirty (30) day prior notice sent to the Customer by any of the means of transmission indicated in Section 13.2 hereof, or from the date of posting of such price changes on the Neptronic Website applicable to a particular Product affected by the price change.
- 4.6 Neptronic may elect to discontinue the sale of any Product even if such Product is featured in a catalog, bulletin, on website or price list and even if previously quoted to the Customer.

5. TERMS OF PAYMENT

- 5.1 Payment for the Products purchased by a Customer shall be made either:
- C.O.D.;
 - by prepayment;
 - with major credit cards (please refer to the terms and conditions of Neptronic's form "**Credit Card Authorization Form**"); or
 - by credit upon Neptronic's having approved the Customer's application for credit at its sole discretion (please refer to the terms and conditions set forth on Neptronic's form "**Application for Credit**").
- 5.2 Where satisfactory open account credit is established in accordance with Neptronic's credit approval policy, unless otherwise specified, invoices shall be due and payable within thirty (30) days from the date of the invoice. Neptronic reserves the right, at any time, to revoke any such credit extended to the Customer if, at its sole discretion, Neptronic is of the opinion that the Customer's financial situation and credit worthiness do not justify the granting of credit privileges to the Customer. If the Customer's credit is revoked, Neptronic may cancel any unfilled Purchase Orders, unless the Customer, upon



written notice, immediately pays for any Product(s) delivered or pays in advance for all Product(s) ordered but not yet delivered, the whole at Neptronic's sole option.

- 5.3 Neptronic will issue invoices upon delivery of Products. If deliveries are made in installments, each installment shall be invoiced and paid when due without regard to other scheduled installment deliveries.
- 5.4 Overdue and outstanding payments shall be subject to finance charges at a rate of 2% per month. The Customer agrees to pay to Neptronic its legal and other costs in connection with the collection of the amounts owing for unpaid invoices, the whole in accordance with the terms and conditions of the Application for Credit signed by the Customer.
- 5.5 Amounts owed by the Customer to Neptronic shall be paid without deduction, compensation or set off whatsoever regardless of any pending dispute between the Parties.
- 5.6 No new Purchase Orders shall be processed in the event there are outstanding amounts which remain unpaid sixty (60) days from the expiry of the terms of payment under the credit facility granted by Neptronic to the Customer.

6. TITLE AND TRANSFER OF OWNERSHIP

- 6.1 The Customer hereby acknowledges that the ownership title to and in Hardware shall remain vested with Neptronic until paid in full at which it will pass to the Customer.
- 6.2 Title and all proprietary rights in the Software including Cloud SaaS Software shall remain vested with Neptronic, the Customer and/or End User benefitting from a restricted license to use Product(s) which shall be governed by the terms of the End User License Agreement. Any license granted under the terms of this Agreement shall be valid as long as the Customer pays the required fees and respects the terms of this Agreement.

7. TERMS OF DELIVERY, SHIPMENT, DAMAGE AND RISK OF LOSS

- 7.1 Unless otherwise indicated in the Confirmation Order, all Products will be shipped EXW (Ex Works Neptronic's facility, Montreal) and all risk of loss or damage shall be borne by the Customer as of the time of delivery at Neptronic's facility in accordance with the terms of *Incoterms 2020*. In cases where Neptronic takes on the responsibility to choose a carrier to ship a Product, the Customer shall assume all risk associated with the loss and/or damage of the Product and Neptronic shall be released of any liability as of the moment the Customer signs the packing slip upon delivery. When the terms of sale are on a CIF basis, *Incoterms 2020*, all risk associated with the loss and/or damage of the Product shall be assumed by the Customer upon signing of the packing slip in the port of delivery.



- 7.2 Delivery times are approximate and depend on the type of Product(s) ordered.
- 7.3 The Customer acknowledges that Neptronic requires sufficient lead times to manufacture the Product(s) ordered by the Customer. Neptronic will make commercially reasonable efforts to deliver orders within the times Neptronic has quoted to the Customer in writing. The times quoted for delivery will date from the date of the Order Confirmation and delivery by the Customer of all necessary information to enable Neptronic to commence manufacturing, whichever is later.
- 7.4 Neptronic will confirm in writing, and may amend as appropriate or necessary, the delivery schedule. In no event will Neptronic be liable for any costs, losses or damages, arising out of or caused by delay in delivery or for non-delivery of Product(s), due to unforeseeable events beyond Neptronic's control or *Force Majeure*.
- 7.5 Except in the case of special instructions to the contrary agreed upon by Neptronic and the Customer, Neptronic will, at its sole discretion, select the most appropriate independent carrier to ship Product(s) to the Customer, without guaranteeing, however, that such carrier will offer the most cost-effective means of transportation.
- 7.6 Product(s) will be shipped to the Customer's address indicated on the Purchase Order.
- 7.7 Neptronic does not assume any liability in connection with the shipment nor shall the carrier be deemed to act as its agent. The Customer shall be responsible for making all claims relating to non-delivery, loss, damage or delay sustained during transportation with the carrier or, as the case may be, with the Customer's insurers.
- 7.8 For international Purchase Orders, the Customer shall designate the freight forwarding agent and inform Neptronic in writing of same and such designation shall remain in effect until notified otherwise.
- 7.9 The Customer shall at the latest within five (5) days of delivery of Product(s) to the Customer's address, advise Neptronic and the carrier in writing of any loss or damage sustained during transportation, the whole without any liability on the part of Neptronic for such loss or damage whatsoever.
- 7.10 The Products held or stored by Neptronic for the Customer shall be at the sole risk of the Customer, and the Customer shall be liable for the expense charged by Neptronic for holding or storing Products at the Customer's request.

8. SOFTWARE AND CLOUD SAAS SOFTWARE

- 8.1 **License.** Subject to the provisions of the End User License Agreement and this Agreement, Neptronic grants to the Customer and End User, a limited, non-transferable, non-exclusive, revocable license to install, download, configure and use the Software and



the Cloud SaaS Software, including any updates and upgrades. This license is hereby granted solely on the condition that the Software and/or the Cloud SaaS Software shall be used only in connection with the permitted use and purpose and in strict compliance with all the provisions of the EULA and this Agreement which shall be binding on the Customer and End User. The full text of the EULA, as same may be updated from time to time, can be found on the Neptronic Website.

8.2 License Restrictions. The license granted under the terms of this Agreement is on a one license per user basis. Without limiting the EULA, neither the Customer nor the End User will use the Products in any manner or for any purpose other than as expressly permitted by these Terms and Conditions. Neither the Customer nor any End User will, or will attempt to (a) modify, copy, distribute, alter, tamper with, repair, or otherwise create derivative works; (b) decompile, disassemble, extract, or otherwise reverse engineer the Software or the Cloud SaaS Software or any part thereof, (c) decrypt or derive the source code, any trade secrets or any proprietary information or create any applications or any derivative works of any content of the Software or the Cloud SaaS Software.

The Customer and/or End User shall not assign, transfer, sublicense, charge or otherwise deal in, encumber or make available to any third party the Software or the Cloud SaaS Software, and any attempt to do so shall be null and void and shall constitute a material breach of this Agreement.

The Customer who is a Reseller shall not loan, rent, lease, give, transfer, publish, disclose, display, or otherwise make available the Software or the Cloud SaaS Software, in whole or in part, to any other person or entity except to a person or entity who is the End User of the Software or the Cloud SaaS Software and who agrees to be bound by the EULA.

8.3 End User License Agreement. This Agreement does not provide the Customer or End User with any right to install or use the Software or the Cloud SaaS Software or Hardware except as expressly provided in this Agreement. The EULA governs the use of the Software or the Cloud SaaS Software by the End User. The full text of the EULA, as same may be updated from time to time, can be found on the Neptronic Website.

8.4 Intellectual Property Rights under the EULA. It is understood, acknowledged and agreed by the Customer and End User that the license granted for the Software or the Cloud SaaS Software pursuant to the EULA does not in any way whatsoever, tacitly, implicitly or expressly, constitute or shall be deemed a transfer of any Intellectual Property Rights in and to the Software or the Cloud SaaS Software or Hardware which shall remain vested with and property of Neptronic.



9. SAAS TERMS FOR THE CLOUD SAAS SOFTWARE

9.1 The SaaS Agreement sets out the terms and conditions applicable to use of the Cloud SaaS Software made available by Neptronic to the Customer who purchases such service. The full text of the SaaS Agreement, as same may be updated from time to time, can be found on the Neptronic Website. The SaaS Agreement shall take effect and be binding once the Customer has initiated the purchase process in accordance with Section 1.1 hereof.

9.2 **Use Rights.** Subject to the Customer's compliance with the terms and conditions of this Agreement, Neptronic: (a) will provide the Customer access to the SaaS via means authorized and provided by Neptronic (which may include online portals or interfaces such as https, or VPN); and (b) hereby grants to the Customer a limited, non-transferable, non-exclusive, revocable non-sublicensable right and license to: (i) access and use the SaaS through such means; (ii) download, install, update or allow Neptronic to update (when applicable), and use software Neptronic provides solely in support of the Customer usage of the SaaS; and (iii) use the relevant documentation for the SaaS as reasonably required in connection with the SaaS, in each case solely for the Customer's internal business purposes (collectively, "**SaaS Use Rights**"). SaaS Use Rights continue for the period stated in the Order Confirmation. The Purchase Order may list metrics, including user number, data volume, sensors or other means to measure usage or fees. SaaS Use Rights are subject to SaaS usage metrics and any other restrictions in this Agreement. If the Customer exceeds SaaS usage metrics, Neptronic may suspend the Customer's access until the Customer pays all required fees. The Customer, its employees and any party accessing the SaaS on the Customer's or End User's behalf ("**Users**") may exercise SaaS Use Rights if the Customer binds them to the terms of this Agreement. The Customer is responsible, and Neptronic has no liability for Users' compliance with this Agreement, and for any breach, act, or omission by them. The Customer may not resell SaaS Use Rights or permit third parties (except Affiliates or service providers) to be Users and may not make copies of the SaaS (except for back up), in each case except as agreed by Neptronic in writing.

9.3 **Accounts.** The Customer may be required to download an app, or visit a website, through which Customer accesses the SaaS and sets up accounts including issuance or authentication credentials. In operating Customer's account Customer and Users must: (a) maintain strict confidentiality of user names, passwords or other credentials; (b) assign accounts to unique individuals and not allow others to use Customer's credentials or access Customer's account, including sharing among multiple Users; (c) immediately notify Neptronic of any unauthorized use or breach of security or security incident related to Customer's account; (d) submit only complete and accurate information; (e) maintain and



promptly update information if it changes; and (f) manage User access. Neptronic may use rights management features (e.g. lockout) to prevent unauthorized use.

9.4 Use of Account. The Customer and End User agree to use the account created through Cloud SaaS Software and services relating thereto, only for the purposes permitted by this Agreement and the SaaS Agreement, and only to the extent permitted by any applicable law, regulation, or generally accepted practice in the applicable jurisdiction. The Customer and End User will ensure that the content in the account created through the Cloud SaaS Software will not violate any provisions of this Agreement or any applicable law. The Customer and End User are solely responsible, waiving any claim against Neptronic in this regard, for the development, content, operation, maintenance, and the use of the account. The Customer, End User and their Affiliates, employees and agents are responsible for the Customer Data and for all activities that occur in the account and for compliance with this Agreement and shall use commercially reasonable efforts to prevent unauthorized access to or use thereof, and will notify Neptronic promptly of any such unauthorized access or use.

9.5 Security and Backup. When applicable, the Customer and End User shall be solely responsible for properly configuring and using the Cloud SaaS Software. The Customer and End User will take appropriate action and measures to secure, protect and regularly and timely backup all data and content on the account and in a manner that will provide adequate security and protection thereof and hereby waives any claim against Neptronic in this regard.

9.6 Customer Data and Privacy Policy. The Customer and/or End User shall retain ownership, right, title and interest in and to the Customer Data as well as the content of the account. No ownership rights in such materials, data and information are transferred to Neptronic. Neptronic shall maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer Data and processing thereof, the whole as more fully set forth in the Privacy Policy Statement which can be accessed on the Neptronic Website. Notwithstanding the foregoing, the Customer and/or End User grant to Neptronic and its Affiliates a non-exclusive, worldwide, sublicensable, perpetual right and license to use the Customer Data for purposes of various product performance analyses and to provide, maintain, protect, and improve Neptronic Products and associated services.

9.7 Temporary Interruption or Suspension. Neptronic may interrupt the services associated with the Customer's account for the purposes of periodic maintenance of its cloud system or due to service interruption caused by an IT system failure or global internet crash. Neptronic will diligently and promptly proceed to fix any such issues to the best of its ability in order to reinstate the cloud services and the use of the use of the Customer's



account. Neptronic will not be liable for any losses or damages caused by such service interruption.

9.8 Neptronic may, without any liability whatsoever in this regard on its part, suspend the Customer's or End User's right to access and use any portion of the account and any services relating to the use of the Cloud SaaS Software and services relating thereto immediately upon prior notice if Neptronic determines that:

(a) the use of the account (i) poses a security risk, (ii) could adversely impact Neptronic's cloud system, the services or systems or content of any other Neptronic customer, (iii) could subject Neptronic or its Affiliates or any third party to liability, or (iv) could be fraudulent or illegal;

(b) the Customer and/or End User in material breach of this Agreement including EULA;

(c) the Customer is default of payment obligations under the terms of the Purchase Order; and

(d) the Customer has ceased to operate, made an assignment for the benefit of creditors or similar disposition of the assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.

9.9 If Neptronic suspends the right to access or use any portion of the account or services relating thereto, the Customer will be responsible for all fees and charges incurred during the period of suspension.

9.10 The Customer will not be entitled to any service credits under this Agreement or, any Service Level Agreement if one concluded by the Parties, for any period of interruption or suspension.

10. FAIL-SAFE SYSTEM, DISCLAIMER, LIMITATION OF LIABILITY AND INDEMNIFICATION

10.1 **Fail-Safe System.** The Customer acknowledges that there can be no certainty or assurance that Products will always be error-free and not subject to failure. Therefore, the Customer will be responsible for taking appropriate safety precautions and measures to handle and deal with such possibility of product failure or malfunction in the context of operating or maintaining equipment controlled by a particular Product. In this respect, the Customer shall establish appropriate procedures and take the necessary measures in



order to ensure to have in place an adequate fail-safe system to prevent any damage, harm or other adverse consequence or impact resulting from such error or failure.

10.2 Disclaimer. THE CUSTOMER AND USER EXPRESSLY UNDERSTANDS AND AGREES THAT NEPTRONIC'S PRODUCTS ARE PROVIDED BY NEPTRONIC ON AN "AS IS" AND "AS AVAILABLE" BASIS. NEPTRONIC AND ITS AFFILIATES DISCLAIM ALL WARRANTIES OF ANY KIND (EXCEPT WHERE OTHERWISE INDICATED HEREIN), WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN PARTICULAR, NEPTRONIC AND ITS AFFILIATES MAKE NO WARRANTY THAT (I) THE PRODUCT AND/OR ANY SERVICE RELATING THERETO WILL (i) MEET THE CUSTOMER'S REQUIREMENTS, (ii) CUSTOMER'S USE OF THE PRODUCT OR ASSOCIATED SERVICE, OR (iii) WILL BE ERROR-FREE, TIMELY, UNINTERRUPTED AND SECURE.

WITH RESPECT TO THE LICENSED SOFTWARE AND SERVICES RELATING THERETO, NEPTRONIC DOES NOT REPRESENT OR GUARANTEE THAT THEY WILL BE FREE FROM LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, GLOBAL NETWORK INTERRUPTION OR CRASH OR OTHER SECURITY INTRUSION, AND NEPTRONIC DISCLAIMS ANY LIABILITY RELATING THERETO.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE HARDWARE, LICENSED SOFTWARE AND SERVICES RELATING THERETO IS ACCESSED AT THE CUSTOMER'S OR END-USER'S OWN DISCRETION AND RISK, AND THE CUSTOMER AND END USER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO THEIR DEVICE, COMPUTER, OR FOR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

10.3 Limited Liability. THE CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT NEPTRONIC AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS SHALL NOT BE LIABLE TO FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER TANGIBLE OR INTANGIBLE LOSSES (EVEN IF NEPTRONIC HAS BEEN



ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR INABILITY TO USE THE PRODUCT OR SERVICE (ii) ANY CHANGES MADE TO THE PRODUCT OR SERVICE OR ANY TEMPORARY OR PERMANENT CESSATION OF THE SERVICE OR ANY PART THEREOF; (iii) THE UNAUTHORIZED ACCESS TO OR ALTERATION OF DATA; (iv) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE AND/OR SEND OR RECEIVE DATA ON OR THROUGH THE SERVICE; AND (v) ANY OTHER MATTER RELATING TO THE PRODUCT OR SERVICE.

10.4 Limitation of Remedies. IN NO EVENT SHALL NEPTRONIC'S OR ITS ASSOCIATES CUMULATIVE MONETARY LIABILITY IN CONNECTION WITH THE PRODUCTS AND SERVICES PURCHASED OR LICENSED BY CUSTOMER PURSUANT TO THIS AGREEMENT EXCEED THE CUMULATIVE AMOUNTS PAID BY THE CUSTOMER FOR THE PRODUCTS OR SERVICES IN THE TWELVE (12) MONTH PERIOD PRECEDING AN OCCURRENCE SET FORTH IN THE SECOND PARAGRAPH OF SECTION 11.2 HEREOF UNLESS THE APPLICABLE LAW PROVIDES OTHERWISE.

10.5 Indemnification by Customer. The Customer agrees to defend, indemnify and hold Neptronic, its Affiliates, directors, officers, employees, agents, partners, contractors, and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by a third party, relating to or arising from (i) the Customer's use of the Products or services; (ii) any claims for actual or alleged infringement of patents, copyright, trademarks, trade secrets or other industrial or intellectual property rights or (iii) violation by Customer of any of these terms and conditions.

10.6 Indemnification by Neptronic. Neptronic shall, at its own expense, defend or, at its option, settle any claim, suit, or proceeding brought against the Customer by a third party for infringement or misappropriation of any intellectual property or other proprietary right of any third party in connection with the sale of the Products under the terms of this Agreement.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 The Customer acknowledges and confirms that all Intellectual Property Rights in and to the Intellectual Property used, utilized or embodied in the Products are the sole and exclusive property of Neptronic and/or, as the case may be, its Affiliates.



- 11.2 The sale of any Product(s) under the terms of this Agreement does not and shall not be deemed to convey upon the Customer or any other third party any express or implicit license or right to the Intellectual Property by implication or otherwise with respect to the Product(s).
- 11.3 Under no circumstances will a sale of a Product to an OEM be deemed to be a transfer of Neptronic's Intellectual Property Rights to such OEM regardless of the nature of the Product's customization.
- 11.4 The Customer and their Affiliates will not do anything, pose any act or take any action, nor allow any other third party to do so, that would violate or infringe in any way whatsoever, upon the Intellectual Property Rights. Should the Customer learn that and of such Intellectual Property Rights are being infringed by a third party, they will promptly advise Neptronic of such violation or infringement.

12. CONFIDENTIAL INFORMATION

The Customer acknowledges that the Products and associated technology and processes purchased from Neptronic contain valuable Confidential Information and therefore, the Customer agrees (i) to hold all Confidential Information in strict confidence in accordance with the terms of this Agreement; (ii) not to use the Confidential Information for any purpose other than the permitted use and purpose pursuant to this Agreement; and (iii) not to disclose any Confidential Information to any third party except who have a need to know the Confidential Information for the sole purpose and use under the terms of this Agreement. The Customer agrees to promptly advise Neptronic of any improper disclosure, misappropriation or misuse of the Confidential Information that comes to your attention. The Customer shall be responsible for any breach of the terms hereof including a breach committed by any of your authorized agents or representatives and any other person to whom you may have disclosed the Confidential Information in the course of this Agreement. The Customer agrees to take appropriate measures and ensure proper safeguards to keep the Confidential Information out of the possession of or access by persons who are not authorized under the terms of this Agreement. If Confidential Information consists of computer software disclosed in object code form, the Customer and/or End User shall not, and shall not permit any other third party, to reverse engineer, reverse compile or disassemble such object code or take other steps to derive an equivalent source code. In addition, if Confidential Information is embodied in an item such as a model or prototype, then except as specifically approved in writing by Neptronic, the Customer shall not, and shall not permit any other party to derive drawings, plans, designs, specifications or other embodied information and/or any such derived information shall constitute and be part of Confidential Information protected by this Agreement.

13. GENERAL PROVISIONS



13.1 **Entire Agreement:** The transaction of purchase and sale of Product(s) in accordance with the provisions of this Agreement shall constitute the entire agreement between the Customer and Neptronic Any modification or change to the Agreement shall not be enforceable unless agreed upon by the Customer and Neptronic in writing.

13.2 **Notices:** Except as otherwise provided in the Agreement, all notices and other communications between the Customer and Neptronic shall be in writing and shall be deemed effective when received and shall be transmitted by: (i) registered or certified mail, return receipt requested, (ii) express mail or courier or delivery service, (iii) personal delivery, (iv) electronic mail or (v) fax.

13.3 **Force Majeure:** With the exception of payment of amounts due under the Agreement, no default, delay or failure to perform on the part of either party shall be considered a breach of the Agreement of the parties if such default, delay, or failure to perform is due to any event constituting Force Majeure.

13.4 **Governing Law:** The Agreement between the Parties shall be governed by and construed in accordance with the laws of Province of Quebec and Canada, applicable therein without giving effect to principles of conflicts of law rules that may direct the application of the law of another jurisdiction and excluding application of the United Nations Convention on Contracts for the International Sale of Goods. The parties expressly exclude the effect of all of the provisions of the U.N. Convention on Contracts for the International Sale of Goods. Each party hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the Province of Quebec for any litigation or dispute arising from or relating to the Agreement between the Customer and Neptronic and the Parties confirm and agree that the exclusive venue for any such litigation shall be vested with a court of competent jurisdiction located in the Judicial District of Montreal.

13.5 **Language:** In the event of a conflict of interpretation between the French and English versions of these Terms and Conditions posted on the Neptronic Website(s), the provisions set forth in the French version will prevail.

(In force as of October 15, 2024)

The above Terms and Conditions are in force as of the above-mentioned date and are subject to change at any time without notice. Each time you use this website, you should check the date of this Agreement and any transaction concluded between you and Neptronic shall be governed by the terms of this Agreement then in force.