

# DEVASYS

## Terms and Conditions

1. **Definitions.**

Product: Items specified in your online or telephone order or account purchase order.

Product Documentation: Instructions required for use of the Product. Download Product Documentation from Seller's website [www.devasys.com](http://www.devasys.com).

2. **Purchase.** Your purchase shall be governed exclusively by these terms and conditions, which constitute the entire agreement between the Purchaser and Seller and supersede any written or oral agreements previously existing between the parties relating to this purchase. Any modification of these terms and conditions must be in writing signed by both Purchaser and Seller.

3. **Purchase Price.** The Product price for purchases is that shown for the Product on our website at the time your order is received. For account purchase orders, the Product price is quoted on the order confirmation. The quoted purchase price does not include shipping, insurance or other special charges, nor does it include taxes, duties or similar assessments. Purchaser is responsible for all such charges, which, if paid by Seller, will be added to the purchase price.

4. **Payment.** All amounts due, including purchase price plus any additional charges described in paragraph 3, are payable in U.S. dollars. Payment for orders will be accepted by Master Card, Visa or American Express, or by such other method as may be agreed to between Seller and Purchaser. Payment for account purchase orders is due and payable within thirty (30) days from the date of invoice. Purchaser shall pay a late charge of 1.5% per month or the maximum amount permitted by law, whichever is less, on any unpaid amount for each calendar month during which payment is overdue.

5. **Delivery.** Seller shall select the method of shipment and the cost of such shipment will be added to the purchase price. If Purchaser desires a different method of shipment, Purchaser must notify Seller at the time of the order and Purchaser shall pay the full cost of any such different mode of shipment. Delivery terms are FOB Seller's shipping point. Title to the Product and risk of loss or damage pass to the Purchaser at the time the Product is delivered to the carrier for shipment.

6. **Cancellation.** Purchaser may not cancel or terminate an order for any reason. Purchaser's sole remedy for any damaged or defective goods received is repair or replacement within the warranty period set forth in paragraph 8.

7. **Restrictions on Use.** Purchaser agrees to read the Product Documentation prior to use of the Product and to use the Product only in accordance with the Product Documentation. Purchaser will not make modifications of

any kind to the Product, including its embedded software. Seller makes no representations as to the safety of the Product in connection with use by Purchaser and Purchaser takes full responsibility for use of the Product in a manner that is safe and will not result in injury to person or property.

8. **Warranty.** Seller warrants that, under normal use in accordance with the Product Documentation, the Product shall be free from defects in material and workmanship for a period of thirty (30) days after delivery to the Purchaser. If the Product fails to meet the warranty of this paragraph 8, Purchaser may, upon written notice to Seller, return any damaged or defective Product within such thirty (30) day period, and Seller will, in its sole discretion, repair or replace the defective or damaged Product. Seller will pay for return shipping charges and delivery of replacement Product only if the Product was returned due to a defect in the manufacture of the Product. This warranty is extended to Purchaser only, and shall not apply to any resale of the Product. This warranty provision shall be null and void and Seller shall not be liable to Purchaser during the warranty period or thereafter for any reason if: (a) modifications are made to the Product, including any portion of the Product or its embedded software; (b) Purchaser does not use the Product in accordance with the Product Documentation; (c) the Product is subject to misuse or abuse in any respect. **THE FOREGOING WARRANTY EXPRESSLY CONTAINED IN THIS PARAGRAPH 8 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

9. **Intellectual Property Rights.** Purchaser acknowledges that the Product contains embedded software which remains the sole and exclusive property of Seller. No licenses or rights in any intellectual property are granted or implied by this purchase. Purchaser shall not undertake to access or extract any such embedded software in order to modify, translate, decompile, or to create or attempt to create, by reverse engineering or otherwise, the source code from the object code version of the software embedded in the Product or for any other purpose.

10. **Export and/or Re-export Limitation.** The delivery of the Product covered by these terms and conditions to locations outside the United States or to Purchasers who contemplate export of the Product outside of the United States is expressly conditioned upon Purchaser obtaining the required export license or authorization from the United States Department of Commerce as required by U.S. Export Administration Regulations. Purchaser will not export or re-export, directly or indirectly, any Product acquired from Seller without first obtaining the all necessary consents and authorizations

from the U.S. Department of Commerce or other appropriate U.S. government agencies.

11. **Limitation of Liability.** IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S LIABILITY TO PURCHASER, IF ANY, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE PAID TO SELLER AS THE PRODUCT PRICE.

12. **Proprietary Information.** In connection with the sale of the Product, either Seller or Purchaser may have provided access to the other's confidential or proprietary information. Each party agrees not to disclose such confidential information or to use it for any other purpose other than performance of the party's obligations under these terms and conditions without the prior written consent of the other. Information shall be treated as confidential under this paragraph 12 if such information is conspicuously marked confidential or proprietary or the party receiving the information is advised in writing that particular information is confidential and to be treated as such.

13. **Successors and Assigns.** Neither party may assign its rights or obligations under these terms and conditions without the prior written consent of the other and any such purported assignment shall be void.

14. **Force Majeure.** Neither party shall be liable to the other for any delay in performance due to causes beyond the reasonable control of such party, including but not limited to, acts or omissions of the other party, acts of civil or military authority; acts of God; acts of war, declared or undeclared, or terrorism; civil disturbance; insurrection or riot; sabotage; fire; earthquake; flood; epidemic; strike; work stoppage or other labor difficulties; embargo; fuel or energy shortage; delay or accident in Seller's intended means of shipping or transportation; or failure or delay beyond Seller's reasonable control in obtaining necessary manufacturing facilities, labor or materials from its usual sources. If any such delay occurs, any applicable time period shall be automatically extended for the time lost

15. **Waiver.** If either party fails to enforce any right or remedy available to it under these terms and conditions, the failure shall not be construed as a waiver of such right or remedy and any waiver, to be valid and enforceable, must be in writing signed by the waiving party. A waiver of any term or condition shall not be deemed a waiver of any other term or condition or any subsequent act relating to the same term or condition unless so specified in the written waiver.

16. **Severability.** If any one or more of these terms and conditions is found to be invalid or unenforceable, the

parties agree that all other terms and conditions shall remain in full force and effect.

17. **Headings.** The headings or captions for these terms and conditions are for convenience of reference only and are not intended to affect the interpretation of any terms or conditions.

18. **Governing Law.** These terms and conditions and the agreement of the Seller and Purchaser relating to the purchase of any Product shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflicts of law principles.

19. **Notices.** All notices permitted or required to be given under these terms and conditions shall be given in writing delivered by personal delivery, by registered or certified mail, or by facsimile or electronic mail if confirmation of receipt can be documented, and if to Seller, to DeVaSys at the address shown on your shipping confirmation, or if to Purchaser, at the address specified in your documented order.