

Next Imaging, Inc. dba 1stVision, Inc. ("Company")

GENERAL TERMS AND CONDITIONS

1. ACCEPTANCE: ACCEPTANCE BY CUSTOMER OF THIS ORDER BY DELIVERY, ACKNOWLEDGEMENT, ACCEPTANCE OR OTHERWISE SHALL BE UNQUALIFIED, UNCONDITIONAL, AND SUBJECT TO AND EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS SET FORTH HEREIN AND NO OTHERS UNLESS PREVIOUSLY AGREED TO IN WRITING BY BOTH PARTIES. Seller's failure to object to any terms and conditions or any other provisions contained in any communication from Buyer, including, but not limited to, Buyer's Order and any changes or amendments thereto, does not waive any of the terms and conditions specified herein. Seller's acceptance of Buyer's Order or Buyer's receipt of Goods, whichever occurs first, shall conclusively evidence Buyer's unconditional acceptance of these terms and conditions. The terms and conditions herein shall be applicable whether or not they are attached to or enclosed with Goods and/or Services sold or to be sold hereunder. Notwithstanding anything to the contrary herein, if software is delivered hereunder, the terms and conditions of the software license attached thereto shall govern the licensing thereof.
2. RISK OF LOSS, DELIVERY AND PASSING OF TITLE: Unless otherwise specified on the shipping documents, delivery shall be made FCA Company warehouse, Andover, MA, (Incoterms 2000) which constitutes delivery when the goods are placed at the disposal of the buyer at the above-named place (hereinafter "Delivery") hereunder. Customer shall assume risk of loss upon Delivery as set forth above. Customer hereby grants Company a security interest in the Product and in any proceeds (including accounts receivable) thereof as security for all of its obligations hereunder, which security interest shall commence upon the Delivery of the Product and terminate upon full payment thereof. Upon request of Company, Customer shall execute any instrument or document required to perfect the security interest. If Seller prepays shipping, insurance, or other related charges, Buyer agrees to reimburse Seller promptly for such charges. If Seller agrees to ship FCA destination, Seller has the right to add insurance to the charges.
3. RIGHT OF INSPECTION/RETURN OF GOODS: All goods and services provided for herein may be inspected by Customer upon delivery and Customer may reject defective articles or articles not conforming to descriptions furnished to Company within a reasonable time, but no more than five business days after delivery. At its option Customer may accept those goods which are not so defective and do so conform and may retain rejected articles at Customer's option. Customer shall not return any Product to Company without first obtaining written authorization (RMA) and instructions from Company. Except as expressly set forth in this Agreement or in writing from Company, Customer shall be responsible for all costs of packing and shipping any returned

Product. Company in its discretion may charge Customer a restocking fee of 25% of the purchase price of any returned Product the Company accepts back.

4. All online sales are FINAL, with absolutely no provisions for returning product(s) for credit/refund.
5. PRICING: Pricing is inclusive of packaging only. Pricing does not include insurance, handling, freight, tariffs, duties, and all taxes and charges, whether similar or dissimilar, unless otherwise indicated on the face of this purchase order.
6. WARRANTIES/DISCLAIMERS/INDEMNIFICATION:
 - (i) Company is a distributor and not the manufacturer of items being shipped. The Manufacturer's warranty transfers with title upon shipment to the buyer. This Product warranty shall not apply to any Product that has been abused, damaged, altered or misused or that is defective as a result of causes external to the Product and not caused by Company. Company warrants the Product conforms to the written description of order provided by Customer (if applicable). Company further warrants that the Product is free and clear of all liens and encumbrances, and that, to the best of Company's knowledge, the Product and sale to Customer are in compliance with all applicable federal and state laws, rules and regulations. EXCEPT AS SET FORTH ABOVE, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
 - (ii) Company may rely on the accuracy and lawfulness of all information and material furnished by Customer to Company regarding the goods or services sold. Customer shall indemnify and hold harmless Company against any liabilities or damages, costs and expenses, (including reasonable attorney's fees) incurred in defending against any action arising out of Customer supplied information or material.
 - (iii) This warranty and the limitations of liability and remedy allocate the risk of product failure between both parties. Company's pricing reflects these allocations of risk. The agent's employees distributors and dealers of Company are not authorized to make modifications to this warranty or additional warranties binding on Company. Accordingly, additional statements such as advertising or representations, whether oral or written, do not constitute warranties by Company and should not be relied upon.
7. INVOICES/PAYMENT: Payment is due via COD, wire transfer, or credit card UNLESS net terms have been previously agreed to by The Company. The time for terms of payment of Company's invoices shall commence with date of delivery of items shipped FCA Company warehouse, Andover, MA, (Incoterms 2010). If any amounts due hereunder are referred to an agent or attorney for collection, Customer shall be

responsible to pay any costs (including reasonable attorney's fees) in connection with such collection effort. In addition, any amounts past due shall bear simple interest from and after the due date until payment is made by customer at a rate of 18% per annum, or if not allowable, to the fullest extent allowed by the law of the applicable jurisdiction

8. DAMAGES: IN NO EVENT SHALL COMPANY BE LIABLE FOR, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH THE PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS AGREEMENT. IN NO EVENT SHALL COMPANY'S LIABILITY FOR DAMAGES FOR ANY REASON EXCEED AN AMOUNT EQUAL TO THE TOTAL OF PAYMENTS MADE BY CUSTOMER TO COMPANY FOR THE PARTICULAR CLAIM FROM WHICH THE CAUSE OF ACTION OCCURRED.

(i) **RIGHTS AND RESERVATIONS:** Customer agrees that the information contained in any devices, processes, or other records or oral descriptions (all hereinafter called descriptive materials) which are furnished to Customer by Company and relating to this order is the proprietary property of Company or its supplier and such information shall only be used for the purpose of this order. Without written approval from Company, Customer shall not, except as necessary for the performance of this order, duplicate such descriptive materials or disclose such information to third parties.

(ii) Customer shall not remove, hide or modify any marks of Company on Products, documentation, packaging or other materials.

(iii) Upon the termination of this Agreement, Customer shall cease any use of the marks of Company. Customer shall not engage in or allow the licensing, use, leasing, loaning, translation, reproduction, copying or modification of any Product, mark of Company, or documentation of Company, except to the extent authorized by this Agreement. Customer shall not operate any business or Internet domain name using, market any product of Customer with or seek to register in any jurisdiction, the market or name of Company, or a confusingly similar market or name, without the prior written consent of Company. Customer has no right to obtain the source code of any software Product. Customer shall not engage in or allow reverse engineering, reverse compiling or copying of the "look and feel" of any product.

9. CHANGE ORDERS, ORDER CANCELLATION: Once the order has been delivered (see section 2), all sales are final, there can be no cancellation or refund unless approved in writing from the Company. All 'special' ordered product, or 'expedited' product cannot be cancelled or refunded. Orders can be cancelled with no penalty if Buyer gives written notice of no less than 60 days within Order's written confirmation date. Buyer's cancellation of any Order for Standard Products that has been accepted and confirmed by Seller is subject to a restocking charge as follows: of fifty percent (50%) of the Order price for such items unless Buyer's written cancellation

notice is received by Seller not less than fifteen (15) days prior to , but not more than 30 days prior to the Order's confirmed delivery date; of 25% of the Order price for such items unless Buyer's written cancelation notice is received by Seller not less than thirty one (31) days prior to , but not more than 60 days prior to the Order's confirmed delivery date. All other Orders are non-cancellable and non-returnable, and Buyer is liable for payment of the full Order price for same. Blanket Orders, Master Supply Agreements, and the like, which are accepted and confirmed by Seller are non-cancellable and Buyer shall pay Seller the full Order value for the balance of quantities not previously called off or delivered to Buyer. All such quantities will be shipped and invoiced no later than the last delivery date or expiration date specified in the Order. Returned Standard Products that are approved under a Company issued RMA are subject to a minimum restocking charge of twenty percent (20%) of the Order price for such items provided such items are returned in a new and unused condition.

10. FORCE MAJEURE: Company shall not be liable for, and is excused from, any failure to deliver or perform or delay in delivery or performance due to causes beyond its reasonable control including, but not limited to terrorism, acts of nature, government, fire, labor difficulty, transportation problems, interruptions of power or communication, or nature disasters.

11. USE OF PRODUCT: Customer shall use Products only in compliance with all applicable instructions and warnings and safety practices, procedures and precautions supplied by Company.

12. MISCELLANEOUS:

(a) **NOTICES:** All notices shall be in writing and deemed given when delivered in person, by overnight delivery through a commercial courier service, or by certified mail, return receipt requested, and responded to email. Notices shall be addressed to each party at its address or such other address as the recipient may have specified by earlier notice to the sender.

(b) **ASSIGNMENT; SUCCESSORS:** This Agreement shall not be assigned by Customer. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

(c) **ENTIRE AGREEMENT:** This Agreement constitutes the entire Agreement between the parties with respect to its subject matter; all prior agreements, representations, statements, negotiations and undertakings with respect to such subject matter are terminated and superseded hereby.

(d) **AMENDMENTS:** No amendment to this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of each party. The term

"Agreement" or "Order", as used herein, includes all exhibits and attachments hereto and any future written amendments, modifications, or supplements made in accordance herewith.

(e) SURVIVAL: After expiration or termination of this Agreement, all provisions relating to payment shall survive until completion of required payments. Furthermore, the expiration or termination of this agreement shall not affect provisions of same which by their terms and meaning are of a continuing nature.

(f) CONSENT TO BREACH NOT WAIVER: No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be inwriting and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

(g) SEVERABILITY; ENFORCEABILITY: In the event any provisions of this Agreement is held illegal, void or unenforceable, the balance shall remain in effect. Company's failure to enforce a right hereunder promptly shall not be deemed a waiver of such right, and no waiver of a right under a provision shall constitute a waiver of any other right under such provision or any other provision.

(h) GOVERNING LAW: This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules.

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