

TERMS AND CONDITIONS OF SALE OF FUJIFILM DATA MANAGEMENT SOLUTIONS PRODUCTS AND SERVICES**1. SCOPE**

a. The terms and conditions of sale contained herein will apply to all quotations and offers made and purchase orders accepted by FUJIFILM Recording Media U.S.A., Inc. ("Fujifilm") relating to the sale of FUJIFILM Data Management Solutions hardware and software products ("Products") and related maintenance and support services for the Products ("Services") provided by Fujifilm to the customer identified on the applicable order documentation ("Customer"). These terms and conditions will become a binding contract when accepted by commencement or performance ("Contract"). This Contract can only be accepted on the terms set forth and no alterations or additions will be incorporated without the express written consent of Fujifilm. Fujifilm's failure to object to provisions contained in any communication from Customer will not constitute acceptance of those provisions. All orders must be accepted by Fujifilm.

b. This Contract will apply unless Customer has signed a separate written purchase agreement with Fujifilm for the ordered Products and/or Services, in which case the separate written purchase agreement will govern.

2. PRICE

a. All prices, fees and discounts for Products and Services are subject to change without notice.

b. Customer will pay, and all prices and fees are exclusive of, sales, use, excise, withholding or any other taxes applicable to the sale, use or delivery of Products and/or Services sold pursuant to this Contract.

c. All prices are quoted in United States dollars.

d. Unless otherwise agreed in writing, Customer shall be responsible for all costs relating to transportation, insurance, express charges, special packaging, freight, dues, customs, duties and any other charges. Such costs shall be invoiced to Customer in addition to all charges for Products and Services.

3. QUOTATIONS

Unless otherwise agreed in writing, quotations are valid for 30 days from the date of quotation.

4. TERMS OF PAYMENT

Unless otherwise stated in the accepted order, all amounts due to Fujifilm must be paid within thirty (30) days of the invoice date and all payments must be in United States dollars. No setoffs or discounts are authorized. Pro-rata payment will be due as deliveries are made. Fujifilm may require prepayment in its sole discretion. If Fujifilm is required to bring legal action to collect delinquent accounts, then Customer will pay reasonable attorneys' fees and costs of suit. Fujifilm may charge the lesser of 1.5% per month or the maximum lawful rate on overdue amounts.

5. TITLE AND DELIVERY

a. Delivery shall be made FOB origin (Incoterms 2010). Customer assumes title and the risk of loss for the Products upon shipment to Customer. Notwithstanding the passage of title, to secure the full payment and performance by Customer of its liabilities and performance hereunder, (i) Fujifilm reserves for itself, and Customer hereby grants to Fujifilm a security interest in the Products and all proceeds thereof; (ii) Customer will execute all financing statements or other documents necessary to further reflect the grant or perfection of the security interest; and (iii) if Customer refuses or fails to execute any such documents, Fujifilm is hereby appointed as Customer's attorney-in-fact to execute any such documents on Customer's behalf.

b. The time for delivery will be established by the parties after the date of acceptance of the order. Partial deliveries will be permitted. Fujifilm will use commercially reasonable efforts to ship by the method specified and the time requested by Customer. Additional charges may apply to comply with Customer's delivery method. Fujifilm will not be liable for any delay in delivery of the Products. Customer may not delay or cancel a Product order or delivery.

6. ACCEPTANCE

Unless otherwise set forth in an order confirmation signed by Fujifilm, no acceptance terms will apply.

7. LIMITED WARRANTY; DISCLAIMER

a. Unless otherwise stated by Fujifilm in an order confirmation signed by Fujifilm or stated in the Product documentation, all Products and Services are sold "AS IS" without warranty. In no event does Fujifilm warrant that any software provided with or embedded in a Product ("Software") is error-free or that Customer will be able to operate the Software without problems or interruptions.

b. If, under normal and proper use, a non-conformity appears in a warranted Product or Service during the applicable warranty period and Customer promptly notifies Fujifilm in writing of such defect or non-conformance and follows Fujifilm's instructions, then, at no charge to Customer, Fujifilm will, at its sole option, either repair, replace or re-perform the same in accordance with Fujifilm's support services policies. Any repaired or replaced Product is warranted for the remaining applicable warranty period. This subsection sets forth Customer's sole remedy and Fujifilm's entire liability and obligation for breach of applicable Product or Service warranties.

c. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 7, PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND FUJIFILM MAKES NO WARRANTY OR REPRESENTATION, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

d. Customer assumes all responsibility and liability for its use of the Products and will defend, fully indemnify and hold harmless Fujifilm, its affiliates and each of their respective directors, officers, employees and agents from and against all damages, losses, allegations, suits, liabilities, settlements, costs and expenses (including legal fees) incurred by Fujifilm arising out of Customer's use of the Products or Services.

e. No written or oral statement made about any Product or Service by an employee or agent of Fujifilm will be effective to extend a warranty for the Products or Services.

f. Customer may, on an annual basis, purchase Services for the Products if Fujifilm makes the same generally available to its customers, pursuant to the terms of this Contract and any written documentation provided by Fujifilm that describes the Services and the prices for such Services. Fujifilm may, in its sole discretion, discontinue the Services at any time upon reasonable prior notice to Customer. In the event that Services are discontinued by Fujifilm, without cause and except for a breach of any agreement by Customer, prior to expiration of the then-current Service term, Fujifilm shall refund Customer the unused fees paid by Customer for the Service period remaining as of the effective date of termination. This subsection sets forth Customer's sole remedy and Fujifilm's entire liability and obligation with respect to termination of Services without cause by Fujifilm.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL FUJIFILM, ITS AFFILIATES, THIRD PARTY SUPPLIERS OR LICENSORS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY WITH RESPECT TO THE PRODUCTS OR SERVICES OR ANY OTHER SUBJECT MATTER ARISING UNDER OR RELATED TO THIS CONTRACT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES FOR: (A) ANY PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OR INTERRUPTION OF BUSINESS, OPPORTUNITY OR PROFITS (B) OVERHEAD EXPENSES OR COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS, TECHNOLOGY OR SERVICES, (C) LOSS OR CORRUPTION OF DATA, RECOVERY OF DATA OR INABILITY OR INTERRUPTION OF USE, OR (D) ANY AMOUNTS IN EXCESS, IN THE AGGREGATE, OF THE FEES PAID TO FUJIFILM FOR THIS ORDER. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION.

9. PROPRIETARY RIGHTS;**CONFIDENTIALITY; PUBLICITY**

a. Fujifilm and its licensors retain the intellectual property rights in and to the Products and Services and related information and materials, and any improvements, enhancements or modifications thereto, or derivatives thereof. Software is licensed and not sold. Products and parts thereof (excluding Product hardware ("Hardware")), computer software (and all materials containing or embodying computer software), drawings, sketches, information, designs and manuals ("Materials") furnished to Customer will be and remain Fujifilm's property and may not be copied or duplicated in any manner or submitted to any third party, for examination or otherwise, without Fujifilm's prior written consent.

b. For a period of five years after the date of disclosure of any Fujifilm confidential information ("Information"), Customer will (i) hold Information in confidence, (ii) not disclose Information to third parties, and (iii) not use any Information for any purpose except as authorized hereunder. Customer will treat all Information with at least the same degree of care that it uses to protect its own confidential and proprietary information, but with no less than a reasonable degree of care under the circumstances. Because damages alone may not be adequate compensation for loss of Information, Fujifilm, in addition to any other legal and equitable rights it may have, will be entitled to seek an injunction against the breach or threatened breach of this Section by Customer.

c. Customer shall not use the name, trademarks, logos or service marks of Fujifilm, or refer to Fujifilm or any of its affiliates, directly or indirectly, in any press release or other public communication, or for any other purpose, without the prior written consent of Fujifilm.

10. LICENSE GRANT

a. If an end user license agreement ("EULA") accompanies the Software or is provided by Fujifilm with respect to the Software, such EULA will apply to the Software and not the terms of this Section 10. If no EULA is provided by Fujifilm for the Software, then the following terms of this Section 10 will apply to the Software.

b. Subject to the terms and conditions of this Contract, Fujifilm grants Customer, under Fujifilm's intellectual property rights, a nonexclusive and nontransferable license, without the right to sublicense, only to: (i) use the Software on the Hardware on which it was embedded when delivered to Customer; (ii) install standalone Software (not embedded on Hardware before delivery) on Hardware or designated equipment, as applicable, for which it was intended, as specified in the documentation or order; and (iii) use the Software in accordance with any use restrictions specified or referenced in the documentation or order (including, but not limited to, license term limit, user limits, data storage or other data capacity limitations, and geographic-specific specifications).

b. Customer may make one copy of the Software and documentation for back-up purposes, provided that any such copies will include Fujifilm's copyright and any other proprietary notices.

c. The license granted herein is granted solely to Customer, and not to any affiliate of Customer. The license granted herein does not authorize Customer (nor may Customer allow any third party) to: (i) copy, distribute, use or allow third party access to the Software, except Customer's agents and representatives for whom Customer is responsible; (ii) decompile, disassemble, reverse engineer, translate, convert or apply any procedure or process to the Software in order to ascertain, derive, and/or appropriate for any reason, the source code or source listings for the Software (except to the extent that such acts may not lawfully be prohibited) or any trade secret information or process contained in the Software; (iii) modify, incorporate into or with other software, or create a derivative work of any part of the Software; (iv) lease or lend the Software; (v) disclose the results of any benchmarking of the Software, or use such results for its own competing software development activities, without the prior written consent of Fujifilm; or (vi) attempt to circumvent any usage limits or other license, timing or use restrictions that are built into the Software.

d. Customer's rights in the Software are limited to those expressly granted in this Section 10. Fujifilm reserves all rights and licenses not expressly granted

to Customer under this Section 10.

e. If Customer is an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software, manuals, or any technical specifications, or any related documentation of any kind, including technical data ("Software and documentation"), is restricted in accordance with the terms of this Contract and the Federal Acquisition Regulation ("FAR") 12.212 for civilian agencies and Defense Federal Acquisition Regulation Supplement ("DFARS") 227.7202 for military agencies.

11. MISCELLANEOUS

a. Customer is responsible for obtaining all necessary governmental permits, licenses, approvals and consents for the import and use of the Products in Customer's country and/or the country to which the Products are shipped.

b. This Contract is governed by the laws of the State of New York, United States of America, without reference to conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Contract. The sole jurisdiction and venue for all legal actions relating to this Contract will be the State and Federal courts in Westchester County, New York. Both parties consent to the jurisdiction of such courts with respect to any such actions and agree that process may be served in the manner allowed by New York law. In any action or proceeding to enforce rights under this Contract, the prevailing party will be entitled to recover its costs and attorneys' fees.

c. If a court of competent jurisdiction finds any provision of this Contract invalid or unenforceable, that provision of the Contract will be enforced to the maximum extent permissible and the other provisions of this Contract will remain in full force and effect.

d. The parties are independent contractors.

e. Customer shall comply with all federal, state, and local laws, rules, statutes and regulations applicable to the Products and Services. Customer will not import, export or re-export the Products or related documentation or any underlying information or technology except in full compliance with all United States and other applicable laws and regulations. Customer shall not knowingly combine with, aid or assist anyone to violate any such laws, rules, statutes or regulations.

f. No modification or amendment of any provision of this Contract will be effective unless in writing and signed by the parties' authorized representatives.

g. Notices or consents required hereunder shall be in writing and deemed given (i) if delivered personally, (ii) on the business day following transmission, if sent by facsimile followed by written confirmation (iii) if delivered via email when the recipient, by an email sent to the email address for the sender, acknowledges having received the sender's email; (iv) one business day after posting when sent via an express commercial courier; or (v) five business days after posting when sent via first-class, registered or certified U.S. mail, postage prepaid to the address or business email address, as applicable, of the other party as set forth on this order or to such other address or business email address as a party may designate upon ten days' notice. Notices to Fujifilm shall be sent with a copy to FUJIFILM Holdings America Corporation, Attention: Legal Department, 200 Summit Lake Drive, Valhalla, New York 10595, Facsimile: (914) 789-8514, Email: legaldepartment@fujifilm.com.

h. The failure of either party to enforce at any time any of the provisions of this Contract will in no way be construed as a present or future waiver of such provisions, nor in any way affect the right of either party to enforce each such provision thereafter. The express waiver by either party of any provision of this Contract will not constitute a waiver of any future obligation to comply with such provision.

i. Customer may not assign this Contract without the prior written consent of Fujifilm. This Contract will bind and inure to the parties and their successors and permitted assigns.

j. Fujifilm will not be liable to Customer or any third party for any loss, expense or damage caused by or resulting from any force majeure event or any

cause or occurrence beyond the reasonable control of Fujifilm, including, without limitation, acts of God, fire, flood, war, labor disputes, governmental laws or regulations, shortage of power, raw materials or parts, or purchase orders exceeding Fujifilm's then-scheduled delivery or production capacity, or actions or inaction of Customer.

k. This Contract, Fujifilm's order form for Products, and a signed nondisclosure agreement between the parties related to the subject matter herein, if any, contains the entire agreement of the parties and supersedes all other agreements or understandings, oral or written, relating to the subject matter herein.