



# Right Ascension LLC

## Terms and Conditions of Sale

Each quote issued by Right Ascension, LLC (“RA”) and the acceptance of any purchase order by RA for RA products shall be governed by the following Terms and Conditions. Any order accepted by RA shall be referred to herein as the “purchase order”.

### 1. GOVERNING TERMS AND CONDITIONS

1.1. EXCEPT FOR AN ORDER WHICH SPECIFIES ONLY QUANTITY AND REQUESTED DELIVERY TERMS AND IS PART OF AN ACCEPTED ORDER, NO OTHER TERM WHICH DIFFERS FROM OR ADDS TO THESE TERMS AND CONDITIONS SHALL BE BINDING UPON SELLER. ANY OTHER OR DIFFERENT TERMS AND CONDITIONS PROPOSED BY BUYER ARE HEREBY EXPRESSLY REJECTED. THE PLACEMENT BY BUYER OF ANY ORDER SHALL CONSTITUTE ACCEPTANCE OF THESE TERMS AND CONDITIONS.

### 2. TITLE, DELIVERY AND INSPECTION

2.1. Products shall be delivered FCA (Incoterms 2010) RA’s facility (i.e., as applicable, Van Nuys, CA), unless otherwise agreed in writing signed by RA. Title and liability for loss or damage shall pass to Buyer upon tender of goods to common carrier for shipment to Buyer. Shipping dates are approximate only. RA shall not be liable for any costs or damages (incidental, consequential, special or otherwise) for RA’s failure to meet delivery dates. Delays experienced by RA in obtaining a validated export license shall be deemed excusable and beyond the reasonable control of RA. Buyer shall have a reasonable time, not to exceed thirty (30) days to inspect goods delivered and to notify RA of any discrepancies. Failure of Buyer to give notice under these terms shall be deemed acceptance of the applicable goods.

2.2. When equipment shipping is delayed at the customer’s request beyond the RA advised shipment date for a period longer than ten (10) business days, RA may at its option (1) require that you arrange for the equipment to be stored in a commercial warehouse with all transportation, storage, handling, and other charges to be billed to you and (2) invoice you the entire unpaid balance on the purchase price of the equipment with payment terms of net 30 days.

### 3. QUOTE TERMS

3.1. Prices quoted herein are valid for 60 days from the Effective Date. Quoted prices are in U.S. Funds. Quoted prices are for domestic purchase and use only. Accessories that are added after the order is placed will require a 15% surcharge. Any change requested made after the order is released to engineering/production will be subject to a \$100.00 change fee, in addition to any other cost associated with the change.

3.2. RA reserves the right to revise prices and specifications detailed within this proposal after the stated, lapsed date.

3.3. Verbal orders are subject to formal, written confirmation.

3.4. Purchase orders are subject to acceptance and written acknowledgement.

### 4. PAYMENT TERMS

4.1. All payments shall be made in U.S. funds. RA may extend or withhold credit to Buyer in RA’s sole discretion. Where credit is extended to Buyer, terms of payment shall be net thirty (30) days from date of invoice. Credit may be withdrawn or subsequent shipments held by RA at any time for late payment. Buyer shall pay interest at the rate of 1.5% per month from date of invoice for late payment. RA’s prices are exclusive of all taxes and duties. Without limitation of the foregoing, responsibility for all customs duties and charges, sales taxes, use taxes, value-added taxes and any other taxes imposed by any federal, state,



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local or municipal taxing authority (excluding any taxes solely on RA's income), shall be borne solely by Buyer.

4.2. On orders with a total value greater than \$50,000.00, RA reserves the right to require milestone payments which shall be defined in the Project and Fee Schedule.

## 5. WARRANTY

5.1. RA warrants that all RA products will be free from defects in materials and workmanship for a period of one (1) year from the date of original purchase.

5.2. RA test systems include a standard one (1) year parts and 90 days labor warranty, unless otherwise specified.

5.3. Services are warranted to be in a workmanlike manner for a period of ninety (90) days after performance. RA's entire liability and customer's exclusive remedy, whether in contract, tort or otherwise for any claim related to or arising out of the breach of warranty covering Services will be re-performance or credited, at RA's option.

5.4. RA will, upon its receipt of any product under warranty, pay all shipping charges to send the repaired, replaced or exchanged product to the original point of shipment.

5.5. Products manufactured by others are subject to the warranty, if any, of their respective manufacturers, and are to be repaired only by a respective authorized service person for such products. RA shall have no obligation to undertake repairs of products manufactured by others.

5.6. The warranties described above do not apply to products manufactured by third parties, products for which necessary components are no longer available on a commercially reasonable basis, or any RA products damaged by accident, abuse, misuse, natural disaster or by any unauthorized disassembly, repair or modification. If there are any questions regarding power, media supply, intended application, or general usage of any RA product, please consult with your sales contact.

5.7. Any repairs performed under RA's warranties shall not in any way extend the statute of limitations for claims under such warranties.

5.8. THE EXPRESS WARRANTIES SET FORTH IN THIS LIMITED WARRANTY ARE IN LIEU OF AND EXCLUDE ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5.9. See "Equipment for Export" warranty section for equipment shipped outside of North America.

5.10. For any warranty claim, the Buyer must provide RA with the applicable model and serial numbers, the date of purchase, and the nature of the problem. RA, in its discretion, may also require that the Buyer return to RA the product being covered under warranty.

5.11. No returns of materials will be honored without prior written approval.

5.12. No agent, representative, reseller, or distributor of RA has any authority to alter the terms of this Limited Warranty in any way. This Limited Warranty may be altered only in writing by an authorized officer of RA.

## 6. LIMITATION OF LIABILITY

6.1. NO INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL RA BE LIABLE TO THE BUYER OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR LOST PROFITS LOSSES OR DAMAGES OR FOR ANY FINANCIAL OR ECONOMIC LOSS CONNECTED WITH THE USE OF THE PRODUCT ORDERED UNDER THESE TERMS AND CONDITIONS. SUCH DAMAGES FOR WHICH RA SHALL NOT BE RESPONSIBLE INCLUDE, BUT ARE NOT LIMITED TO, LOST TIME AND CONVENIENCE, LOSS OF



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USE OF THE PRODUCT, THE COST OF A PRODUCT RENTAL, COSTS OF GASOLINE, TELEPHONE, TRAVEL OR LODGING, THE LOSS OF PERSONAL OR COMMERCIAL PROPERTY, LOSS OF CONTRACTS, LOSS OF PRODUCTION, AND THE LOSS OF REVENUE.

6.2. NO LIABILITY IN EXCESS OF PURCHASE PRICE. IN NO EVENT SHALL RA'S AGGREGATE LIABILITY WITH RESPECT TO ANY PRODUCT SOLD EXCEED THE PURCHASE PRICE OF SUCH PRODUCT PLUS ANY SHIPPING CHARGES THAT RA MAY BE OBLIGATED TO PAY. THE REMEDIES OF THE BUYER UNDER THESE TERMS AND CONDITIONS SHALL BE EXCLUSIVE AND IN LIEU OF ANY OTHER REMEDY AT LAW OR IN EQUITY.

## 7. EXPORT CONTROL

7.1. All RA quotes and all Buyer purchase orders issued for RA products are subject to all U.S. Export Regulations, including, without limitation, the International Traffic in Arms Regulations (ITAR) administered by the U.S Department of State's Directorate of Defense Trade Controls, and the Export Administration Regulations (EAR) administered by the Department of Commerce's Bureau of Industry and Security. RA's performance on any resulting sale or contract is contingent on strict compliance with these regulations as applicable and may require prior written approval from the U.S. Government (USG) before RA can execute the terms and conditions of the purchase order. RA shall not be liable for delays resulting from the actions or inaction of any USG agency.

7.2. Buyer agrees to comply with the terms and conditions of all U.S. Export and Re-export Regulations, and U.S. Government written approvals related to this purchase order. Buyer agrees to indemnify and hold harmless Seller for all claims, losses, or damages, including, without limitation, reasonable attorneys' fees and expenses, incurred by Seller as a result of any failure by Buyer to comply with this clause.

## 8. PROPERTY RIGHTS

8.1. Buyer acknowledges and agrees that all right, title and interest in and to all writings, works of authorship, technology, inventions, discoveries, processes, techniques, methods, results of non-recurring engineering services, designs, validation studies, procurement information, bills of material, concepts, research, materials and all other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, amended, conceived or reduced to practice by the RA individually or jointly with others pursuant to this purchase order or related in any way to the business or contemplated business, products, activities, research or development of RA or result from any work performed by RA for the Buyer (in each case, regardless of when or where the work product is prepared or whose equipment or other resources is used in preparing the same), all rights and claims related to the foregoing, and all printed, physical and electronic copies and other tangible embodiments thereof ("Work Product"), as well as any intellectual property rights therein and all improvements thereto shall be the sole and exclusive property of RA. The Buyer acknowledges that, to the extent permitted by law, all Work Product consisting of copyrightable subject matter is "work made for hire" as defined in the Copyright Act of 1976 (17 U.S.C. § 101), and such copyrights are therefore owned by RA. To the extent that the foregoing does not apply, the Buyer hereby irrevocably assigns to RA, and its successors and assigns, for no additional consideration, the Buyer's entire right, title and interest in and to all Work Product and intellectual property rights therein, including, without limitation, the right to sue, counterclaim and recover for all past, present and future infringement, misappropriation or dilution thereof, and all rights corresponding thereto throughout the world. Nothing contained herein shall be construed to reduce or limit RA's right, title or interest in any Work Product or intellectual property rights so as to be less in any respect than RA would have had in the absence herein.

## 9. COMPLIANCE WITH LAWS



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9.1. Buyer represents and covenants that, at all times, Buyer's use, sale, marketing and export of all RA products shall be in accordance with all applicable laws, rules, and regulations of the United States and of any other applicable jurisdictions, including without limitation, the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions and regulations of the United States or any applicable foreign government, agency or authority. Buyer will not export or re-export, or authorize the export or re-export of any RA product, technology or information it obtains or learns from RA in violation of any laws, restrictions or regulations.

## 10. APPLICABLE LAWS

10.1. The validity, performance and construction of this contract shall be governed by the internal laws of the State of California, United States of America, without regard to principles of conflicts of law.

## 11. HAZARDOUS MATERIALS

11.1. The quoted unit is not designed for use with or the processing of hazardous materials, including potentially flammable, explosive or corrosive material. If hazardous materials are involved in your process, please contact RA for an alternate quotation on a properly designed unit.

11.2. The seller cannot be responsible for any misapplied product, nor for consequential damages arising from the use of its products.

## 12. SYSTEM RE-ASSEMBLY/ERECTION, START-UP AND TRAINING

12.1. The equipment quoted may be of custom design to meet specific applications. All systems are 100% tested for functionality to meet the customer's quoted test specifications at the factory. Any additional test specification or ATP, Acceptance Test Procedures, will be conducted at additional buyer expense as defined in the Project and Fee Schedule.

12.2. Since the performance of the test system may depend on such factors as installation location, temperature and flow, ambient conditions, customer loads, or other variables, RA strongly recommends the purchase of supervision of the equipment's reassembly / erection / activation (if required) and training to be performed by RA personnel.

12.3. For start-ups requiring the use of a sub-contracted service company, we recommend that the customer use an approved RA Service Contractor. If an unauthorized Service Contractor performs the re-assembly/erection and start-up of the equipment; the Customer assumes all risks associated with the re-assembly/erection of the equipment. Also, if an unauthorized Service Contractor is used, RA is not responsible for additional materials that may be required as a result of improper work practices.

12.4. The Customer shall be responsible for identifying and notifying RA of all applicable local and/or state fire codes, building codes, and zoning requirements. If a local and/or state fire codes, building codes, or a zoning requirement may affect the design of the equipment, it shall be the Customer's obligation to notify RA at the time that design specifications are approved.

12.5. If a local and/or state fire codes, building codes, or a zoning requirement may affect the re-assembly/erection of the equipment, then the Customer shall be responsible for the correct re-assembly/erection of the equipment. Customer is also responsible for obtaining any required permits. RA shall not be responsible for any design of the equipment which violates local and/or state fire codes, building codes, or zoning requirements, unless Customer has notified RA of such requirements, nor shall it be responsible for Customer's re-assembly/erection of the equipment in violation of local/state fire codes, or building codes or zoning requirements or for Customer's failure to obtain a required permit.

## 13. CANCELLATION AND TERMINATION OF WORK



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13.1. Purchaser may cancel the Order only upon payment of all of the following: (1) RA's actual expenses pertaining to the Order incurred through the date of cancellation, (2) the actual costs RA has incurred or will incur for commitments made by RA pertaining to the Order, and (3) any other expenses to be incurred by RA arising out of the termination of the Order (this would include the cost of capital and any restocking charges). Purchaser may indicate its intention to cancel the Order only by delivering written notice to RA, whereupon RA will notify Purchaser of the payment amount required to terminate the Order pursuant to this provision and such amount will be immediately due and payable. The Order will be canceled only upon payment of such amount; however, RA shall be entitled to cease all work pertaining to the Order upon receipt of Purchaser's notice of intention to cancel.

## 14. STATUTORY AND REGULATORY

14.1. (Examples: OSHA, Safety Devices, F.M., F.I.A., NEC, IP, Etc.) Products are not required to conform to any standards, except OSHA and NEC, unless the same are set forth in the quote. Where conformance is part of the installation, Seller shall furnish any required equipment, beyond those specifically indicated in the quotation only when mutually agreed upon in a written agreement signed by the Seller.

Please contact Right Ascension, LLC if you have any questions or need any clarifications pursuant to these terms.