

BENCHMARK's Standard Terms and Conditions of Service and Sale

1. Definitions: "Company" or "BENCHMARK" means Benchmark Calibration Laboratory, LLC, and its affiliates and subcontractors; "Customer" means the person(s), or entity for whom BENCHMARK is performing Services or providing Goods; "Services" mean all services, inspection, measurement, calibration, and other testing and labor of any kind performed by BENCHMARK, and including all resulting test reports, test results, test data, materials, and goods; "Goods" shall mean any product sold by BENCHMARK; "Order" shall be the accepted scope of work or details of Goods to be sold by BENCHMARK, "Agreement" shall mean these Terms and Conditions of Service along with any BENCHMARK Quote. Customer agrees to be bound by, and is subject to the terms and conditions in the Agreement. Terms in any Customer issued purchase order that are inconsistent with the provisions of this Agreement shall be null and void and shall be superseded by this Agreement. The issuance of a purchase order by Customer constitutes an acknowledgement that the terms and conditions in this Agreement are the sole terms and conditions under which Customer shall purchase the Services or Goods from BENCHMARK, and, if any purchase order is accepted by BENCHMARK, this agreement shall constitute the entire and sole agreement between BENCHMARK and Customer.

2. Payment Terms: Payment in full for the Services provided by Company will be made in U.S. funds Net thirty (30) days of the date of Company's invoice, except that all charges for repairs and Goods, transportation charges, insurance costs and taxes shall be due and payable upon Customer's approval thereof. BENCHMARK may, in its sole discretion, extend credit to Customer upon terms to be determined on a case-by-case basis.

Any failure by Customer to pay as provided herein shall be a material breach and shall entitle BENCHMARK to pursue any remedies available at law or in equity.

Time is of the essence for payment of invoice(s). In the event Customer fails to make a payment when due, Customer agrees to reimburse BENCHMARK for all costs, including actual attorney fees, incurred by BENCHMARK to collect the outstanding balance. Unpaid accounts shall be subject to a service charge of 1.5% per month on any outstanding balance, or the maximum allowed by law, if a lesser amount.

In the event Customer authorizes BENCHMARK to charge amounts due hereunder to a credit card and such charges are rejected for any reason by the customer's credit card provider, Customer authorizes BENCHMARK to continue to attempt to secure payment through that credit card so long as any unpaid balances remain on customer's account. Any check returned unpaid to BENCHMARK shall be subject to a \$40.00 returned check fee.

Sales tax exemption requests require an exemption certificate for the State in which the Services or Goods are to be used in order to demonstrate Customer's exemption from Florida sales/use tax.

3. Cancellations: Customer shall not be permitted to cancel any Order. In the event of cancellation, Customer shall pay all costs associated with the labor, parts/materials, goods, freight charges and restocking charges.

4. Excusable Delays: BENCHMARK shall not be liable for nondelivery or delay in performance of Services or delivery of Goods if such delay is caused, directly or indirectly, by, or in any manner arises from, any circumstances beyond BENCHMARK's control, including without limitation, global pandemics, delay or failure to deliver by BENCHMARK's suppliers, fires, floods, accidents, riots, war, acts of god, governmental interference or embargoes, or shortage of labor (each a Force Majeure Event). In the event of a Force Majeure event, BENCHMARK shall promptly notify Customer of the delay or cancellation and the cause thereof.

5. Warranty:

5.1 Service Warranty: BENCHMARK warrants that its Services will be performed in a good and workman like manner in accordance with the specified or industry accepted testing standard(s). If, within the three (3) month period after completion of Services, Customer notifies BENCHMARK that the Services are non-conforming, BENCHMARK will re-perform the Services at no cost. Such re-performance shall be BENCHMARK's sole liability for the non-conforming Services, with no liability for damages arising therefrom, including but not limited to special, indirect, consequential, incidental, punitive, statutory or other damages. BENCHMARK's Service warranty does not include the effects of improper operation, improper handling, accidents, improper storage, improper use and improper maintenance or repair not attributable to BENCHMARK. In no event shall BENCHMARK be responsible for costs or losses arising from accessing, retrieving or removing non-conforming Services, or reinstalling repaired or replacement Services. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO DISCLAIMING ALL WARRANTIES OF TITLE, OF NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE EVEN IF SUCH PURPOSE OR USE IS DISCLOSED.

5.2 Goods Warranty:

BENCHMARK is not a manufacturer and thus the warranty of any Goods sold to Customer shall be limited to the factory warranty, if any, extended by the manufacturer of such item. BENCHMARK does not make, and hereby disclaims, any other warranty and is providing such Goods, and customer is accepting such Goods, in their AS IS condition. Use of the Goods is at Customer's sole risk. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ALL WARRANTIES OF TITLE, OF NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE EVEN IF SUCH PURPOSE OR USE IS DISCLOSED.

5.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, BENCHMARK MAKES NO WARRANTY OF ANY KIND OR NATURE WITH RESPECT TO TOUCH SCREENS AND/OR TOUCH PADS.

6. Limitation of Liability: BENCHMARK insures packages only up to the price of the Service. In the event that the item to be Serviced is lost or stolen while in the sole custody of BENCHMARK, BENCHMARK shall only be liable for the price of the Service of the specific unit. BENCHMARK shall not be liable for any alteration performed by Customer on any repairs, motors, or new sale items.

Customer agrees that BENCHMARK'S total liability is strictly limited to the price of the Services or cost of the Goods. In no event shall BENCHMARK be liable for any special, direct, indirect, incidental, exemplary, or consequential damages, expenses, business interruption, lost profits, savings, or lost business information.

7. Rush & Expedited Fees: Rush Services must be approved in advance in writing. BENCHMARK's target turnaround for Rush Service is 24 hours. This time frame is dependent on part and labor availability. BENCHMARK shall have no liability for failure to meet such target. Rush Fees, once approved, are not refundable.

8. Export Control: Customer agrees that it is and shall remain in compliance with all U.S. Export Control Laws, including but not limited to the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulation ("EAR"). Customer shall not disclose any information that is subject to any U.S. Export Control Laws without notifying BENCHMARK in advance and in writing, and specifying the applicable ECCN classification(s) or USML number(s).

9. Intellectual Property: Company will maintain all of its current or future Intellectual Property ownership, rights, title and interests it uses or provides in the Services at all times. If the Services sold hereunder are prepared according to Customer's specifications, Customer shall indemnify Company against any and all actual or threatened claims or liability for any legal complaint, intellectual property infringement on account of such Services performed by Company.

10. OFAC Certification: Customer represents that (i) neither Customer nor any person or entity that directly owns 10% or greater equity interest in it nor any of its officers, directors, or managing members is a person or entity (each, a "Prohibited Person") with whom U.S. Person or entities are restricted from doing business under regulations of the office of Foreign Asset Control ("OFAC") of the Department of the U.S. Treasury (including those named on OFAC's Specifically Designated and Blocked Person List) or under Executive Order 13224 (the "Executive Order") signed on September 23, 2001, and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit Threaten to Commit, or Support Terrorism", or other governmental action, and (ii) that throughout the term of this Contract, Customer shall comply with the Executive Order.

11. Anti-Bribery: Customer agrees they are in compliance with all applicable Anti-Corruption Laws. No action, suit or proceeding by or before any court, or government agency, authority or body, or any arbitrator or nongovernmental authority involving any Representative with respect to applicable anti-corruption laws is pending or threatened. Customer shall promptly notify Company in writing if it becomes aware of facts or information which suggest a breach of the foregoing Anti-Corruption covenants or the Anti-Corruption Laws.

12. Non Solicitation: Throughout the provision of Services and for a period of one-year after completion thereof, Customer shall not solicit for employment, directly or indirectly, any employee of Company who performed a material part in the provision of Services for the Customer without the written consent of the Company.

13. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CUSTOMER WAIVES AND RELEASES ANY AND ALL RIGHTS, CLAIMS, DEMANDS OR CAUSES OF ACTION THAT MAY OTHERWISE BE AVAILABLE AT LAW OR IN EQUITY OR GRANTED BY STATUTE TO AVOID OR DISREGARD THE ENTITY FORM OF COMPANY OR OTHERWISE IMPOSE LIABILITY ON ANY PARENT OR AFFILIATE OF COMPANY, WHETHER GRANTED BY STATUTE OR BASED ON THEORIES OF EQUITY, AGENCY, CONTROL, INSTRUMENTALITY, ALTER EGO, DOMINATION, SHAM, SINGLE BUSINESS ENTERPRISE, PIERCING THE CORPORATE VEIL, UNFAIRNESS OR UNDERCAPITALIZATION.

This Agreement and any dispute arising between the parties hereto, shall be governed by the internal laws of the State of Florida and shall be adjudicated in courts located in Seminole County, Florida.