Fiber Instrument Sales, Inc.
Standard Terms and Conditions of Sale

1. Acknowledgement. It is agreed by FIS (“Supplier”) and the “Customer” that the sale of the Products, Services, and/or Support Services is governed exclusively by these Terms and Conditions of Sale. Supplier’s acceptance of Customer’s Purchase Order is expressly conditioned upon Customer’s agreement to these Terms and Conditions. Supplier hereby expresses objects to any deletions, modifications, alterations or additions to these Terms and Conditions. Any such revisions may be binding only if they are in writing and signed by the authorized representative of Supplier.

These Terms and Conditions shall apply to all sales of Products, Services, and/or Support Services between FIS and Customer until such time as FIS issues a revised Terms and Conditions, or unless expressly agreed to in writing.

2. Definitions.
   a. “Product(s)” means all goods, equipment, supplies, materials, parts, components, and assemblies Supplier sells.
   b. “Purchase Order” means written communication and/or electronic submission that Customer shall submit to Supplier for approval for purchase of Product. The Purchase Order shall include the Customer’s order number, quantity and type of Product, descriptions, shipment information and instructions, and invoice information.
   c. “Services” means any professional services provided to Customer described in an applicable Statement of Work and/or proposal.
   d. “Support Services” means any re-work or repair work provided by Supplier on Customer supplied items. This may also include any work provided under warranty.

3. Payment Terms. Standard Payment Terms are Net 30 days, unless otherwise specified in advance of order acceptance. All payment terms are subject to prior credit approval by Supplier. First time orders for new accounts cannot be processed unless accompanied by a completed credit application. Supplier may reject any purchase order, change its credit terms, suspend performance or cancel any accepted Purchase Order, at its sole discretion when, in Supplier’s reasonable determination, Customer’s financial condition so warrants. Overdue accounts are subject to a 2% monthly finance charge.

4. Currency. All prices are listed, quoted, issued and invoiced in U.S. Dollar.

5. Shipment and Risk of Loss. Product will be shipped to Customer’s shipping address or as agreed and specified in the Purchase Order. All Products shall be deemed to have been delivered to Customer upon shipment. Shipping terms are EXW FIS in Oriskany, New York, U.S.A. Any loss of or damage to the Products shall be at the risk of Customer from the date the Products are tendered to the carrier in Oriskany, NY. Customer shall insure the Products against loss or damage as appropriate. Customer shall be responsible for all shipping and handling costs.

6. Ordering Process. Orders are to be submitted to your FIS Sales Representative or via our sales portal. International customers should submit orders via electronic communication to InternationalOrders@fisales.com. Purchase Orders may not be amended or canceled by the Customer once confirmed. Supplier may allow cancellation or partial cancellation of a Purchase Order in its sole discretion and will provide this cancellation confirmation in writing. Customer may also be responsible for any work in process or already committed for materials. Supplier will promptly notify Customer if this is the case and will notify Customer of value owed.

7. Product Complaint and Return Procedure. Contact your FIS Sales Representative to arrange for an exchange or a return of Product. Any stock items may be returned upon prompt inspection of goods and notification to FIS. Any discrepancies with an order must be reported to FIS within 24 hours of receipt. A Returned Merchandise Authorization (RMA) number must be requested within three (3) days of receipt of Product and returned to FIS promptly. All Product returned must be marked with an FIS RMA number and be new and in unopened, full shipping unit quantities. Credit cannot be issued without an FIS RMA number. Supplier reserves the right to charge a restocking fee on any returned product. The restocking fee does not constitute a waiver of any rights Supplier may have under law.

Custom made and uncatalogued items will not be accepted for return. Non stock special order Products cannot be returned unless the FIS vendor will issue an RMA. Custom cut cable ordered in error is non returnable.


9. Confidential Information. Information that is to be treated as Confidential under this Agreement shall (i) be disclosed in tangible form (including electronic form) and marked by the Disclosing Party as “Confidential,” “Proprietary” or other appropriate legend indicating the confidential nature of the information or (ii) be disclosed orally or visually and be identified by the Disclosing Party as confidential and then summarized in tangible form, marked in accordance with Section (i) above, and delivered to by the Receiving Party within thirty days after the date of first disclosure. Confidential information includes (i) samples and prototypes and (ii) information, in any form or medium, regarding pricing, customers and prospective customers, vendors and vendor lists, costed bills of materials, processes (including but not limited to manufacturing processes), know-how, designs (including but not limited to designs of enclosures and printed circuit boards), formulae, computer programs, databases, methods of operation, sales techniques, business methods or plans, marketing plans and strategies, finances, management, plant and equipment, or any other business information relating to the Disclosing Party, whether constituting a trade secret, proprietary information or otherwise, which has value to the Disclosing Party and is treated by the Disclosing Party as being confidential.

Information in the following categories shall not be considered Confidential Information under this Agreement: (a) information which is in the public domain at the time of the receipt under this Agreement; (b) information which the Receiving Party can show was in the Receiving Party’s possession before the date of disclosure under this

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10. **Export Compliance.** All commodities, technology or software are exported from the United States by FIS in accordance with the Export Administration Regulations. Diversion contrary to United States law is prohibited.

11. **FCPA Compliance.** FIS abides by the U.S. Government Foreign Corrupt Practices Act of 1977 which prohibits the making of corrupt payments or to offer to pay anything of value to foreign government officials, employees, political parties or candidates, or to persons or entities who will offer or give such payments to any of the foregoing to obtain or retain business or to secure an improper commercial advantage. Customer acknowledges that it is familiar with the provisions of the FCPA and agrees that is not and will not take action that would constitute a violation of the provisions of the FCPA. For complete details please visit www.justice.gov/criminal-fraud/foreign-corrupt-practices-act.

12. **Compliance with Laws.** Both Supplier and Customer shall comply with all applicable federal, state, and local laws, rules, and regulations.

13. **Governing Law.** These Terms and Conditions 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. Supplier and Customer agree that the state courts of Oneida County, New York and the federal courts located in the Northern District of the State of New York shall have exclusive jurisdiction and venue to adjudicate any and all disputes arising out of or in connection with this Agreement. Supplier and Customer consent to the exercise by such courts of personal jurisdiction over them and each Party waives any objection it might otherwise have to venue, personal jurisdiction, inconvenience of forum, and any similar or related doctrine.

14. **Indemnification and Limitation of Liability.** FIS will defend any suit brought against Customer insofar as it is based upon a claim that one or more of the Products directly infringe any third party’s copyright, and shall indemnify Customer against any final award of damages or costs by a court of competent jurisdiction in any such suit that are attributable to such claim, so long as Customer provided Supplier with prompt written notice of any suit. Customer must also provide full assistance and cooperation in the defense, including providing all necessary documents and information requested by Supplier.

   It is in FIS’s sole discretion to decide whether to procure the right to continue using the infringing Product, modify that Product so it no longer infringes on a third party’s, or enable the Customer to return the Product.

   FIS has no obligation and liability if the claim for infringement is due to a product design according to the requirements of the Customer, Customer’s use of the Product in combination with other equipment caused the infringing traits, Customer modified the Product without Supplier’s knowledge and written consent, or if Customer failed to notify the Supplier and continued to use the infringing product after it became aware of the alleged infringement.

   FIS SHALL NOT BE HELD LIABLE FOR ANY CLAIMS ARISING FROM ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES by reason or any act or omission or arising out of or in connection with the Products or their sale, delivery, warranty, maintenance, operation, performance or use, including but not limited to loss of business or goodwill, stoppage of work or impairment, lose revenues, income or profits, costs of capital, damage to associated products or equipment, damage to facilities, cost of substitute products, costs to remove or reinstall products, and costs associated with any down time.

   FIS’s liability will in no event exceed the cost of the purchase price originally paid for the Products.

15. **Waiver.** Neither Supplier’s nor Customer’s failure to enforce any of the provisions within these Terms and Conditions shall be construed as a waiver of such provision or the right to enforce any of these provisions at a later time.

16. **Relationship of Parties.** In purchasing Product under these Terms and Conditions, Customer is solely acting as an independent contractor. No agency, partnership, joint venture, or other business organization is created by these Terms and Conditions. Neither party has the authority to make commitments of any kind for, or on behalf of, the other party.

17. **Force Majeure.** Neither Supplier nor Customer shall be held liable for any failure to perform or delay in the performance of its obligations if such delay is caused by reason of acts of God (floods, earthquakes, hurricanes, etc), epidemics, strikes, wars, revolution, civil commotion, acts of public enemy, embargo, acts of government, or any other circumstances beyond the reasonable control and not involving any fault or negligence on the part of the delayed party.

18. **Assignment.** Neither these Terms and Conditions nor any rights or obligations hereunder shall be transferred or assigned by either Supplier or Customer without the written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

19. **Illegal, Invalid, or Unenforceable Provisions.** If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

20. **Entire Agreement.** These Terms and Conditions contain the complete and exclusive Agreement between Supplier and Customer, and it is intended to be the final expression of their Agreement. No promise, representation, warranty or covenant not included in this document has been or is relied upon by any Party. Each Party has relied upon its own examination of the warrants, representations and covenants expressly contained in these Terms and Conditions. No modification or amendment of these Terms and Conditions shall be of any force unless agreed to in writing by Supplier and Customer.