

EVISSAP, INC.  
TERMS AND CONDITIONS  
Version July 2016

1. Definitions.

"Buyer" means the business or person who buys or agrees to buy products or services from Seller.

"Sales Contract" means the binding agreement between Seller and Buyer for the sale of products or services by Seller to Buyer. The Sales Contract usually consists of (i) Seller's quotation/offer and (ii) Buyer's purchase order/acceptance of that quotation/offer.

"Seller" means evissaP, Inc., a California corporation headquartered in San Jose, California, USA.

"Terms and Conditions" means these terms and conditions.

2. Application. These Terms and Conditions apply to all (i) Seller quotations and offers for sale of Seller products and services; (ii) Buyer purchase orders for Seller products and services; (iii) Seller acknowledgements of Buyer's purchase orders for Seller products and services; (iv) any other sales of products and services by Seller to Buyer; and (v) Sales Contracts. A quote by Seller to Buyer shall be deemed Seller's offer to provide products or services to Buyer and Buyer's purchase order shall be deemed Buyer's acceptance of Seller's offer. Any terms in Buyer's purchase order that modify, add to, or delete any terms of Seller's offer are not agreed to and do not become part of the Sales Contract.
3. Modifications. For any given Sales Contract, these Terms and Conditions may be modified only as follows: the modification, addition, or deletion of any of these Terms and Conditions is expressly stated and Seller expressly agrees in writing to accept such modification, addition, or deletion. To be effective, any such modification, addition, or deletion must be (i) stated within Seller's quote/offer applicable to the Sales Contract; (ii) stated within Seller's acknowledgment of Buyer's purchase order; or (iii) if stated in a separate writing, Seller's quote/offer or acknowledgment expressly references that writing. Any terms and conditions that modify, add to, or delete any of these Terms and Conditions which are not agreed to Seller in the manner described above are not accepted by Seller and do not become part of the terms of any Sales Contract.
4. Seller Prices. Prices of products and services published and quoted/offered by Seller are contingent on these Terms and Conditions applying to any Sales Contract for the applicable products or services. Seller's published website prices, published datasheet prices, and any other Seller published prices are subject to change at any time and without notice to Buyer. All prices, whether published, quoted, or offered, are in U.S. dollars. Unless otherwise stated in Seller's offer/quotation, Seller's offer/quotation shall be valid for 30 days from date on Seller's offer/quotation.
5. Taxes. The amount of any sales, excise or other taxes, if any, applicable to the products shall be added to the purchase price and shall be paid by Buyer unless Buyer provides Seller with a valid

resale certificate. Any taxes which Seller is required to pay or collect under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use or consumption of any of the products, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of Buyer, who shall promptly pay the amount thereof to Seller upon demand.

6. **FOB Point and Shipment.** FOB point is Seller's facility in San Jose, California, USA. Buyer agrees to take title to the purchased products when the purchased products are either picked up by Buyer at Seller's San Jose, CA facility or handed off to Buyer's specified courier at Seller's shipping dock in San Jose, CA. Buyer shall be responsible for (i) naming the courier service and method of shipment from Seller's San Jose, CA facility to the Buyer's specified shipment destination address; (ii) paying all shipping charges and fees associated with the shipment from San Jose, CA to Buyer's specified shipment destination address; (iii) any and all damage incurred during shipment from Seller's facility to the shipment destination address; and (iv) choosing to insure or not insure shipment against damage or loss. Buyer is to file any and all claims with the courier for loss or damage occurring during shipment.
7. **Payment.** Unless otherwise stated in Seller's offer/quote, payment terms are net cash 30 days from date of shipment on dollar amounts up to Seller's assigned credit limit for established commercial accounts in good standing. Buyer agrees to pay Seller's invoice amount, in U.S. dollars, in accordance with Seller's payment terms. If Buyer elects to pay Seller's invoice amount by wire transfer a \$25.00 wire transfer fee shall apply. Buyer agrees to add \$25.00 to Seller's invoice amount when paying by wire.
8. **Buyer's Purchase Order is Non-Cancellable and Non-Returnable (NCNR).** Once Seller acknowledges Buyer's purchase order, Buyer's purchase order in whole or in part cannot be cancelled by Buyer unless explicitly agreed to in writing by Seller, and, Buyer cannot return product shipped against that purchase order for convenience or any other reason except for product returns qualifying for return under Seller's warranty set forth in section 9 below.
9. **Rescheduling of Purchase Order Delivery Dates.** After Seller acknowledges Buyer's purchase order, Buyer may not reschedule delivery dates shown on that purchase order unless Seller, at its sole discretion, approves Buyer's reschedule request in writing.
10. **Warranty; Limitation of Liability.** Seller products are warranted against defects in material and workmanship for a period of six months from the date of shipment. If Seller receives notice of such defects during the warranty period, Seller will investigate the matter. In determining whether a defect exists, Seller will take into account whether the product was damaged by Buyer. If Seller's investigation determines there is a defect in material or workmanship, Seller will, at its sole option, either (i) repair or replace the product, or (ii) refund Buyer's purchase price for the product. This warranty extends only to Buyers purchasing Seller-branded products and services directly from Seller or from an authorized distributor of Seller.

Seller disclaims all other warranties, whether expressed, implied, statutory, or otherwise. Seller specifically disclaims the implied warranties of merchantability and fitness for a particular

purpose. The remedies provided herein are Buyer's sole and exclusive remedies. Seller will not be liable for direct, indirect, special, incidental, or consequential damages whether based on contract, tort, or other legal theory. In no event will Seller's liability for damages exceed the purchase price paid by Buyer for the Seller's product in question.

11. Delivery. Seller will make a good faith effort to complete delivery of the products as indicated in Seller's written quote/offer, but Seller assumes no responsibility or liability and will accept no backcharge for loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Seller, including, but not limited to, liability for Seller's non-performance caused by acts of God, war, labor difficulties, accidents, inability to obtain materials, delays of carriers, contractors or suppliers or any other causes of any kind whatever beyond the control of Seller. Under no circumstances shall Seller be liable for any special, consequential, incidental, indirect, or liquidated damages, losses, or expense (whether or not based on negligence) arising directly or indirectly from delays or failure to give notice of delay.
12. Recommendations by Seller. Buyer acknowledges that Seller does not make and specifically disclaims any representations, warranties and guaranties of any kind or character, expressed or implied, regarding (i) the products sold, their use, design, application or operation, their merchantability, their physical condition or their fitness for a particular purpose; (ii) the maintenance or other expenses to be incurred in connection with the products; (iii) the engineering, design, fabrication work or any other work or service (whether gratuitous or for payment) supplied by Seller or its agents, suppliers and employees; or (iv) the accuracy or reliability of any information, designs or documents furnished to Buyer. Seller neither assumes, nor authorizes any person to assume for it, any other obligation in connection with the sale of its products or rendering of its services. Any recommendations made by Seller concerning the use, design, application or operation of the products shall not be construed as representations or warranties, expressed or implied. Failure by Seller to make recommendations or give advice to Buyer shall not impose any liability upon Seller.

Furthermore, the Buyer shall accept complete and total responsibility for verifying, validating and determining if Seller's product and Seller's product performance is suitable for the end use application of the Buyer or the Buyer's customer, as applicable, including but not limited to the product's survivability and reliability in the end use environment.

Buyer understands that (i) Seller performs all product tests and measurements inside a building, at or near sea level, at an ambient temperature between 15°C and 35°C and with the product in a fixed nondynamic state; (ii) any and all Seller published or stated minimum and maximum mechanical dimensions and minimum and maximum electrical performance parameters are guaranteed to meet Seller's published or stated minimum and maximum values when the product is measured and tested at Seller's facility, in and under the conditions in item (i) above, prior to Seller shipping the product to Buyer; (iii) all mechanical measurements and electrical tests performed by Seller are "go/no-go" and not recorded; (iv) any and all Seller published maximum

ratings and operating temperature ranges are published as guidelines only, and often only reflect characteristics of certain material used to construct the product and do not apply to the characteristics of the assembled finished product; (v) Seller does not test, verify or validate the performance of its products to its published guidelines for the products maximum ratings and over temperature performance, and therefore Seller does not confirm, warrant or guarantee this performance; (vi) Seller published maximum ratings and operating temperature range information is solely based on industry standard published data for connectors and materials used in building Seller's products and, if important to Buyer or Buyer's customer, the product performance needs to be verified by Buyer; and (vii) Seller, at its sole discretion, can change any published product information, pricing, materials used in the construction of its products and its construction techniques without providing notice to Buyer.

13. Part Numbers: If a Buyer Part Number (PN) is included in Seller's quotations and offers for sale of Seller products and services, Seller's use of Buyer's PN is for convenience, shall be for reference only and Buyer's specifications shall not apply unless Seller specifically states in Seller's quotations and offers for sale of Seller products and services that Buyer's PN specifications apply. Final PN specifications are to be defined by Seller's internal documentation or Seller's web posted documentation associated with the PN. If a Seller PN is shown as TBD in Seller's quotations and offers for sale of Seller products and services, a Seller PN will ultimately be provided upon request and a drawing with specifications shall be issued in a reasonable timeframe after Seller acknowledges Buyer's acceptance of Seller's offer.
14. Data and Information Not Shipped. Any data or information not delivered to Buyer under a Sales Contract is the exclusive property of Seller and disclosure of such data or information shall be at the sole discretion of Seller.
15. Country of Origin. Seller builds and produces products in the United States and has commercial products produced in an affiliated and wholly-owned facility in China. Country of origin for commercial products, including cable assemblies for test, is China unless otherwise agreed to in writing.
16. Indemnification. Seller makes no promise or representation that the products or services will conform to any federal, state or local laws ordinances, regulations, codes or standards, except as particularly specified and agreed upon in writing by an authorized representative of Seller. Seller's products are not for use in applications involving nuclear facilities, in the body implantable devices, or in equipment or any items used for life support. Seller shall not be responsible for any losses or damages sustained by the Buyer or any other person as a result of improper installation or misapplication of the products. Buyer shall defend, indemnify and hold harmless Seller and its directors, officers, employees, shareholders, representatives, agents and affiliates against any loss, damage, claim, suit, liability, judgment or expense (including, without limitation, reasonably attorneys' fees) arising out of or in connection with any injury, disease or death of persons (including, without limitation, Buyer's employees and agents) or damage to or loss of any property or the environment, or violation of any applicable laws or regulations resulting from or in connection with the sale, transportation, installation, use, or repair of the products by Buyer or of the information, designs, services or other work supplied to Buyer, whether caused by the

concurrent or contributory negligence of Buyer, Seller, or any of their respective directors, officers, employees, representatives, agents, affiliates, or suppliers. The obligations, indemnities and covenants contained in this paragraph shall survive the consummation or termination of any Sale Contract.

17. **Severability.** If any provision of these Terms and Conditions is held to be unenforceable, then (i) such provision shall be modified to the minimum extent necessary to make it enforceable, and (ii) the validity and enforceability of all the other provisions of these Terms and Conditions shall not be affected thereby and shall be construed so as to give effect to the maximum extent possible to the intent manifested by the provision held unenforceable.
18. **Non-Waiver.** Seller's failure to insist upon the strict performance of any term or condition herein shall not be deemed a waiver of any of Seller's rights or remedies hereunder, nor of its right to insist upon the strict performance of the same or any other term herein in the future. No waiver of any term or condition hereunder shall be valid unless in writing and signed by Seller's management.
19. **Construction.** These Terms and Conditions shall not be construed against the party preparing them, but shall be construed as if all parties jointly prepared these Terms and Conditions and any uncertainty or ambiguity shall not be interpreted against any one party.
20. **Entire Agreement.** These Terms and Conditions, along with the accompanying offer/quote by Seller and the acceptance/purchase order by Buyer, constitute the entire, complete, and exclusive agreement between the parties with respect to the subject matter hereof and contains all the agreements and conditions of sale; no course of dealing or usage of the trade shall be applicable unless expressly incorporated herein.
21. **Governing Law.** These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of laws rules to the extent such rules would apply the law of another jurisdiction. All actions, regardless of form, arising out of or related to a Sales Contract must be brought against Seller within the applicable statutory period, but in no event more than one year after the date of invoice.
22. **Jurisdiction; Venue.** Any actions arising from or relating to these Terms and Conditions shall be brought in a state court having jurisdiction in Santa Clara County, California, USA and the parties agree and consent to submit to the exclusive jurisdiction of such courts and waive any objection to venue laid therein.