

International Terms of Sale - Hololens

- 1. Definitions.** As used throughout these International Terms of Sale, including provisions incorporated by reference, the following terms shall have the meaning set forth below:
- (a) “Buyer” means the person or entity with an ordering address outside the fifty United States and the District of Columbia that is purchasing Seller’s Product(s). United States possessions and/or territories are deemed to be outside the United States, and therefore, any buyer with an ordering address therein is deemed a Buyer.
 - (b) “End-User” means the party ultimately using the goods for their intended purpose.
 - (c) “Order” means the contractual instrument (e.g. agreement, contract, subcontract or purchase order) into which these International Terms of Sale are incorporated.
 - (d) “Party” or “Parties” means the Buyer or Seller individually or collectively, respectively.
 - (e) “Product” or “Products” means the equipment, software, or services being provided by Seller.
 - (f) “Seller” means General Dynamics Mission Systems, Inc.
 - (a) “Devices” means Microsoft Hololens Commercial Suite devices and accessories
- 2. Acceptance of Orders.**
- 2.1 Seller’s acceptance of an Order issued by Buyer shall be expressly limited to (a) the terms set forth herein, and (b) any additional terms and conditions agreed to by the Parties and expressly incorporated in the Order. The Order represents the entire agreement between Buyer and Seller pertaining to the subject matter of an Order and shall supersede all prior oral and written agreements, proposals, communications, and documents. Buyer’s Order shall be deemed accepted only after Seller’s written acceptance is provided to Buyer. Except where Seller provides written acceptance of an unusual circumstance, Buyer’s Order shall not be construed to be accepted by any other action of Seller including, but not limited to, commencement of performance or delivery.
- 2.2 TO THE EXTENT THAT THESE INTERNATIONAL TERMS OF SALE AND ACCOMPANYING DOCUMENTS CONSTITUTE AN OFFER TO SELL, SELLER’S OFFER IS EXPRESSLY LIMITED TO THE TERMS STATED HEREIN. TO THE EXTENT THAT THESE INTERNATIONAL TERMS OF SALE AND ACCOMPANYING SELLER DOCUMENTS CONSTITUTES AN ACCEPTANCE OF BUYER’S OFFER, SELLER’S ACCEPTANCE IS EXPRESSLY MADE CONDITIONAL ON BUYER’S ASSENT TO SELLER’S TERMS HEREIN.
- 3. Prices and Payment.**
- 3.1 All prices will be invoiced in United States dollars and must be paid in full in United States dollars. All prices are assumed to be exclusive of value-added taxes, and all other taxes, assessments, tariffs, or duties, unless expressly agreed in writing by the Parties. Buyer acknowledges that Seller has a right to payment for work performed or services rendered based on the prices set forth in the contract.
- 3.2 All international orders are subject to a minimum twenty percent (20%) down payment. If Seller notifies Buyer that a down payment is required, no work will start on Buyer’s Order until the down payment is received. Invoicing and payment for the balance due shall occur prior to shipment and/or rendering of service.
- 3.3 Where Seller, in its sole discretion, extends credit terms to Buyer, Buyer shall pay for all amounts due within fifteen (15) calendar days from the date Products are shipped.
- 3.4 If mutually agreed in writing, Buyer may make payments according to a performance or milestone-based schedule.
- 3.5 Payment will be deemed to have been made when received by Seller. Seller reserves the right to accrue interest on late payments from the date due until receipt by Seller of full payment at the lesser of (a) one and one-half percent (1.5%) per month compounded monthly, or (b) the maximum rate permitted by law.
- 3.6 If, in Seller’s sole discretion, Buyer’s financial condition has been impaired subsequent to acceptance of an Order, then Seller reserves the right, upon ten (10) calendar days’ notice, to require full or partial payment in advance, regardless of the original agreed upon payment terms. In the event of bankruptcy or insolvency of Buyer, Seller may cancel any Order then outstanding and receive reimbursement for applicable cancellation charges.

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3.7 At Seller's option, payment in advance of shipment via certified check, wire transfer, or the establishment by Buyer of a commercial letter of credit in favor of Seller may be required for all or part of the Order price. Any letter of credit must be irrevocable, issued by a reputable international bank, and either advised or confirmed at Seller's option in accordance with the following:

For the benefit of General Dynamics Mission Systems, Inc.

PNC, N.A.
International Trade Services
2 Tower Center Blvd., 9th Floor, Mail Stop: J3-JTTC-09-B
East Brunswick, NJ 08815 (USA)
SWIFT Code: PNCCUS33ENJ

Such letter of credit must: (a) be payable at sight upon presentation, accompanied by commercial invoice and evidence of shipment, (b) allow for transshipments and partial shipments, and (c) state shipment terms as Free Carrier (FCA), Seller's named U.S.A. facility (INCOTERMS 2010). Buyer shall be liable for bank fees and charges associated with the administration of the letter of credit. Such letter of credit must permit presentation of documents to the United States bank within twenty-one (21) calendar days from the date of shipment. Issuance of letters of credit not in accordance with these conditions may result in cancellation of the Order, non-shipment, and/or delay in shipment. In the case of cancellation, Buyer shall reimburse Seller for applicable cancellation charges set forth in the letter of credit.

Wire Transfer Orders:

General Dynamics Mission Systems, Inc.
C/O PNC Bank, NA
PO Box 640232
Pittsburgh, PA 15264-0232
ABA Routing Number: 043000096
Account Number: 3695717

4. Packing and Shipping. Unless otherwise agreed to by Seller in writing, Seller shall pack and ship all Products in accordance with Seller's standard practice for export shipments.

5. Delivery and Risk of Loss.

5.1 Seller's liability and risk of loss or damage to the Products shall pass to Buyer under FCA (named place chosen by Seller) INCOTERMS 2010 (or other mutually agreed to and Seller approved INCOTERM). Delivery to the FCA delivery point will be via a freight forwarder and/or carrier either chosen by Seller or nominated by Buyer and approved by Seller. If the Buyer's freight forwarder and/or carrier are approved by Seller and/or the named place chosen is the Seller's shipping dock, Buyer agrees that it is responsible to ensure that its forwarder and/or carrier complies with Seller's instructions related to the proper filing of export clearance documents to record the export with U.S. Customs and Border Protection in the Seller's name as U.S. Principal Party in Interest (USPPI) and to indemnify Seller for any compliance matters that may arise from any failure by the Buyer to ensure the forwarder and/or carrier follow the Seller's instructions related to export clearance. In no case will Seller be obligated to import into Buyer's country or the country of ultimate destination by any INCOTERM or contractual requirement as Seller lacks the ability to make importations in countries in which it does not have a presence or operations and nothing in the Order shall be construed to create such an obligation on the part of Seller.

5.2 Seller will make reasonable commercial efforts to meet its estimated delivery or performance dates; however, such dates are not guaranteed. Seller shall not be liable for any loss, cost or expense incurred by Buyer if Seller fails to meet such dates due to production or other delays. At its option, Seller reserves the right to make deliveries in installments.

5.3 If Buyer delays shipment and fails to negotiate a modification to the Order in good faith within fourteen (14) calendar days of the specified ship date, Seller may invoice and warranty shall be deemed to commence as though shipment had occurred as specified. Furthermore, Seller reserves the right to move such Products into storage or to dispose of such Products and charge any incidental costs to Buyer.

5.4 The shipment of Products or portions thereof may be contingent on Buyer's and/or Seller's compliance with export laws as described in clause 15.0.

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6. Inspection, Acceptance and Title.

6.1 Equipment.

6.1.1 Seller's Facility. Except as otherwise agreed in writing by Seller, final acceptance shall occur upon delivery of the equipment to the freight forwarder at Seller's facility. Unless otherwise agreed in writing, the equipment is subject to Seller's standard inspection and/or test at place of manufacture. For Orders in which Seller agrees to inspection or test by Buyer on the premises of Seller, final inspection and acceptance by Buyer shall be conclusive. Buyer agrees that any inspection and test on its part shall not delay or disrupt Seller's performance. Buyer further agrees that it shall comply with Seller's security and safety policies during any inspection or test on the premises of Seller, and also shall comply with applicable export laws and regulations.

6.1.2 Locations Other than Seller's Facility. Where the Parties agree in the Order that inspection and acceptance will occur upon delivery of the equipment to a mutually agreed upon INCOTERM delivery point other than Seller's facility, Buyer's acceptance will be deemed complete if Buyer provides no written report of exceptions within ten (10) calendar days after receipt. It is further understood that Buyer's (a) placing of any equipment provided hereunder into service and/or (b) beneficial use of such equipment shall constitute acceptance.

6.1.3 Title. Title to equipment shall transfer upon delivery to the freight forwarder.

6.2 Software. All software shall be considered accepted: (a) if the recorded media, by which the licensed software is provided, is furnished free of defects and damage, provided that the media has been properly installed by the Buyer or (b) thirty (30) days after delivery, whichever occurs first.

6.3 Services. Buyer shall accept the services or give Seller written notice of rejection within ten (10) calendar days after receipt. In the event of a rejection notice, Seller will determine whether or not a non-conformity exists, and if so, promptly correct or re-perform the nonconforming services. Seller shall disclose any corrective action taken. Redelivery to Buyer of any corrected or re-performed services shall be at Seller's expense.

7. Force Majeure.

7.1 Neither Party shall be liable for any excess costs or other damages if the failure to perform arises out of causes beyond the reasonable control and without the fault or negligence of the Party asserting an event of Force Majeure. Force Majeure causes may include, but are not limited to (a) acts of God or of the public enemy, (b) war (whether an actual declaration thereof or not), (c) acts of terrorism or threats thereof, (d) acts of a Government in either its sovereign or contractual capacity, (e) sabotage, (f) insurrection, (g) riot or other act of civil disobedience, (h) atmospheric disturbances, (i) fires, (j) floods, (k) plagues or epidemics, (l) quarantine restrictions, (m) labor disputes or strikes, (n) failure or delay in transportation due to transportation workers strike or freight embargoes, (o) worldwide parts shortage(s) or rationing allocations, (p) shortage of labor, fuel, raw material or machinery, or (q) violent storms or unusually severe weather. If the delay is caused by a delay of Seller's subcontractor and if such delay arises out of causes beyond its reasonable control, and without its fault or negligence, Seller shall not be liable for any delay in performance, excess costs or other damages unless the Product to be furnished by the Seller or subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedules. Seller shall notify Buyer in writing within ten (10) calendar days after it becomes aware of any Force Majeure event. If the original delivery schedule is overcome by the Force Majeure event, then the Parties agree to negotiate in good faith a revised delivery schedule.

7.2 Should either Party be unable to fulfill a material part of its obligations under an Order for a period in excess of sixty (60) calendar days due to circumstances beyond its reasonable control as described above, the other Party may at its sole discretion terminate the Order by written notice. Upon either resolution of the Force Majeure event or termination as described, the Parties shall proceed in good faith to negotiate a termination settlement covering the performance of the Order prior to the effective date of the termination.

8. Taxes, Customs, Licenses, Insurance and Secure Work Conditions.

8.1 Buyer shall bear all value-added and local income taxes, customs duties, import license fees, excise taxes, work permits, licenses, or other charges imposed by governmental or quasi-governmental bodies, other than Seller's United States

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income or franchise taxes, assessable on Products sold hereunder. Buyer will obtain and pay for any necessary in-transit or other insurance after Seller's delivery of Products to the carrier at the FCA point.

8.2 Except as agreed in writing by the Parties, Buyer assumes responsibility for securing and paying for any satellite, radio or wireless antenna communication type approval certifications or national homologations that may be required within the country of end-use. In addition, Buyer shall bear sole responsibility to secure and pay for all local certifications or licenses deemed necessary for the operation of the Products and for related connections of such Products to electrical, gas, or other utilities.

8.3 For Orders requiring the presence of Seller personnel or subcontractors at Buyer's or Buyer's customer's facility, Buyer agrees to sponsor Seller's employees for any required visa applications. Furthermore, Buyer shall provide a written security plan upon request of Seller, and Buyer shall take reasonable steps to execute and maintain safe and secure work conditions for the duration of Seller's site work. Seller reserves the right to stop work immediately if it deems the site to have a security concern and to be afforded an equitable price adjustment for such work stoppage. Seller also agrees to conduct site work in accordance with Seller's standard commercial practices and any safety plan deliverables that may be a part of the Order.

9. No Warranties or Representations.

9.1 THE DEVICES AND ANY SOFTWARE OR SERVICES (INCLUDING UPDATES) PROVIDED WITH THE DEVICES ARE SOLD "AS IS." SELLER DOES NOT PROVIDE AND EXPRESSLY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES. THIS INCLUDES DISCLAIMER OF WARRANTIES REGARDING NON-USE OF OPEN SOURCE SOFTWARE OR OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, LACK OF VIRUSES OR ERRORS, SATISFACTORY CONDITION, SAFETY, COMFORT, OR QUALITY. FURTHER, SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATION, WARRANTY, OR LIABILITY FOR ANY THIRD-PARTY SOFTWARE OR ASSETS IN THE DEVICES, INCLUDING BUT NOT LIMITED TO ANY SOFTWARE, TOOLS OR ASSETS BY UNITY TECHNOLOGY.

9.2 Devices include the pass-through to Buyer of Microsoft's commercial limited warranty for one (1) year from date of purchase. See Appendix A for details. If Buyer returns any Devices to Microsoft pursuant to any applicable warranty provisions, Buyer must, from and with regard to all to-be-returned Devices, back up and store any data Buyer wishes to keep, remove any personal or confidential information, remove any peripherals (e.g., memory cards and USB drives), and backup any software not pre-installed by Microsoft (or uninstall such software so that Buyer can preserve any applicable installation count and reinstall on a replacement Device, if any) before you return the Devices to us in accordance with Microsoft's terms and policies. Microsoft is not responsible for any loss or inconvenience suffered by you due to your failure to comply with the terms in this Section 9.2 or any other Microsoft warranty or replacement policies, including without limitation any loss of your data or transfer of your data to a third party.

9.3 Buyer will not make any representations, warranties, guarantees or promises with respect to any Device that are not contained in or would conflict with any documentation provided with the Devices.

10. Changes. No changes, extras or other work (whether deemed to be within or outside of the general scope of an Order or modification of any kind or description) shall be authorized unless evidenced by a written agreement signed by duly authorized representatives of both Parties.

11. Termination.

11.1 No Order accepted by Seller may be terminated by Buyer for any reason other than Seller's breach as determined by a court of competent jurisdiction except by written agreement signed by duly authorized representatives of both Parties. In such an event, Buyer shall provide Seller thirty (30) days prior written notice for Seller to cure or present a plan to remedy the breach within the thirty-day notice period. In the absence of a pre-negotiated termination liability schedule, the Seller reserves the right to charge the Buyer termination or re-stocking fees in addition to any other payments due.

11.2 It is hereby agreed that the rights and obligations of the Parties contained in clause 9 and clauses 13 through 24 shall survive and continue after any termination or cancellation of an Order and shall continue to bind the Parties, their successors, their assigns and their legal representatives.

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12. Audit. Notwithstanding any language or provision to the contrary, Buyer shall have no right to audit or examine Seller's books and records.

13. Proprietary Information.

13.1 Except as provided in Section 13.3, all information disclosed in written, graphic, model, or oral form, including, but not limited to, drawings, prints, publications, specifications, processes, manufacturing techniques, oral explanations, schedules and financial reports, obtained by Buyer from Seller prior to and during the performance of an Order which is marked as "Proprietary" by Seller shall be kept confidential by Buyer and shall remain the property of Seller, and shall be returned at Seller's request. Such information shall only be used in performance of the Order and shall not be used for other purposes unless agreed to in writing by Seller. Such information shall not be reproduced, published, disseminated, or disclosed to any third party, including the U.S. Government, by Buyer without the prior written consent of Seller. Buyer will notify Seller promptly in writing if Buyer learns of any unauthorized use or disclosure of Seller's proprietary information, and will cooperate with Seller in good faith to remedy such occurrence to the extent reasonably possible. Buyer acknowledges that a breach of this provision may result in irreparable harm to Seller, for which money damages may be an insufficient remedy, and therefore, Seller will be entitled to seek injunctive relief to enforce the provisions of this Section. Buyer agrees that any breach of this Section is a material breach, and is cause for immediate termination of the Order.

13.2 Nothing contained herein shall be construed as granting an implied license or a license by estoppel or otherwise to any of Seller's intellectual property.

13.3 Subject to the terms contained in an Order, Seller grants to Buyer and its customer (as applicable), including Buyer's and its customer's subcontractors associated with the Order, a non-exclusive, non-transferable, irrevocable, royalty-free license to use and reproduce in whole or in part copyrighted standard commercial documentation provided with the Product(s) for the limited purposes of conducting training and/or to facilitate operation and maintenance of Seller's Product(s).

14. Reserved.

SELLER SHALL NOT BE LIABLE FOR ANY COLLATERAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF PATENTS.

THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF SELLER FOR PATENT INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, IN REGARD THERETO.

15. Compliance with Export Laws.

15.1 Export License/Approvals. Buyer agrees that it will not, without the prior authorization of the Bureau of Industry and Security, United States Department of Commerce; the Directorate of Defense Trade Controls, United States Department of State; or the Office of Foreign Assets Control (OFAC), United States Department of the Treasury, whichever is applicable, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any Product or technical data or service sold or otherwise furnished hereunder to any person within any territory for which the United States Government, or any agency thereof, at the time of such action, requires an export license or other governmental approval, without first obtaining such license or approval. Buyer agrees to indemnify and hold harmless Seller, its officers, directors, employees and agents from and against any and all loss or liability for any and all claims, losses, demands, expenses, penalties or costs (including attorneys' fees) resulting from failure of Buyer to comply with this clause.

15.2 End-Use and End-User. Buyer agrees to provide detailed actual End-Use and End-User information and to provide any additional information requested by Seller in satisfaction of any regulatory or due diligence requirements when required by Seller. Seller's ability to deliver an Order is dependent on receipt of complete End-Use and End-User information and such other written certifications (i.e., OFAC, etc.) that Seller deems necessary or required to be obtained by regulation. If the End-User is other than the Buyer, then Buyer shall, at the time of its disclosure of end use and End-User, identify any pertinent laws or regulations in the Buyer's legal jurisdiction (i.e. Country) affecting Seller's performance of the subject Order. Seller reserves the right, at its option, to fully or partially terminate any Order or to rescind or revise its offer and price, if any change in any person or entity handling the Products in Buyer's order chain and/or any law or regulation that Seller in its sole discretion believes makes a particular Order no longer tenable.

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16. Limitation of Liability.

16.1 Notwithstanding any other provisions or language in these International Terms of Sale or in the Order to the contrary, in no event shall Seller's total liability under an Order (including breach of contract actions or any action arising in tort) exceed the total price thereof.

16.2 UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE IN CONTRACT OR OTHERWISE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES ARISING FROM ANY LOSS, DAMAGE, EXPENSE OR INJURY SUSTAINED FROM OR IN CONNECTION WITH THE SALE, INSTALLATION, USE, SERVICE OR FAILURE OF ANY PRODUCT SOLD HEREUNDER, OR ANY DEFECT THEREIN, OR FROM ANY OTHER CAUSE. BUYER'S REMEDY, IF ANY, WILL BE STRICTLY LIMITED TO THE TERMS OF THIS CLAUSE.

16.3 No action may be brought for any alleged breach of an Order more than one (1) year after the date such alleged breach occurred.

17. Translations. In the event of translation into a language other than English, the English language version of these International Terms of Sale and all documents related to or connected with an Order, including any specifications or statements of work, will be considered the authentic and controlling text for all purposes, including, but not limited to, resolution of conflict or ambiguity in interpretation of rights and obligations thereof.

18. Governing Law and Venue.

18.1 Buyer and Seller agree that these International Terms of Sale shall be deemed to have been executed and delivered within the State of New York, and the rights and obligations of the Parties shall be construed and enforced in accordance with, and governed by, the laws of the State of New York without regard to its conflict of law principles.

18.2 All claims or disputes arising under or in any way related to an Order, including those relating to the validity of these Terms, shall be resolved through good faith negotiations between authorized representatives of each Party. In the event that such negotiations do not lead to a written settlement signed by a duly authorized representative of each Party within thirty (30) calendar days or such longer period of time as may be mutually agreed upon in a written document that is signed by a duly authorized representative of each Party, then either Party may elect to resolve the matter through the state or federal courts. Venue for any action brought under or relating to an Order covered by these International Terms of Sale shall exclusively be in a state or federal court of competent jurisdiction in the State of New York. The Parties hereby irrevocably waive any right to challenge such venue on the basis of forum non conveniens or otherwise. **THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO AN ORDER COVERED BY THESE INTERNATIONAL TERMS OF SALE.**

18.3 The Parties agree and consent to accept service of process by certified or registered United States mail, return receipt requested, addressed as provided herein. In the event that an action is commenced by either Party with respect to an Order, the substantially prevailing Party shall be entitled to recover its costs and attorneys' fees from the other Party. Seller and Buyer expressly disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods to any Order.

19. Transfer/Assignment. An Order shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Neither Party may assign or transfer its rights or obligations as provided in an Order without the prior written consent of the other Party, which shall not be unreasonably withheld; provided, however, that Seller may, without consent of Buyer, assign an Order as a result of a merger or a sale of all or substantially all of the assets or stock of Seller to a parent, subsidiary or affiliate as part of any internal reorganization.

20. Validity and Waiver. If a court of competent jurisdiction determines any provision, in whole or in part, of an Order to be illegal, invalid, or unenforceable, then the validity and enforceability of the remaining provisions hereunder will not be affected. In lieu of such illegal, invalid, or unenforceable provision, the Parties shall negotiate one or more provisions as similar in terms as may be legal, valid and enforceable under applicable law to be added as part of an Order. The failure of Seller to enforce any applicable provision of these International Terms of Sale, or to require at any time performance by Buyer of any provision or obligation related to an Order or these terms hereof, shall in no way be construed to be a waiver of such provision, nor in any way affect the validity of an Order, these terms, or any part hereof,

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or the right of Seller thereafter to enforce each and every provision.

21. Offset/Countertrade. These International Terms of Sale do not allow for any offset or countertrade commitment. Should the Buyer require any offset or countertrade commitment as a condition of purchase, Seller reserves the right, at its option, to terminate the subject Order, or to rescind and revise its offer and price.

22. Software License.

22.1 Software will be licensed in accordance with the License provided with the Product – Microsoft End User License Agreement at https://www.microsoft.com/en-us/Useterms/OEM/Windows/10Mobile/UseTerms_OEM_Windows_10Mobile_English.htm. If no software license is provided and the Product contains software or firmware, then Seller grants to Buyer and Buyer's customer (if applicable) a nonexclusive, revocable, royalty-free, limited license to use such software or firmware and software documentation only for the purpose of operating and maintaining the Product on which it is installed.

22.2 The Software is proprietary information of Seller. Seller retains title to all Software. Making copies of Software except for one copy for archive purposes is prohibited unless specifically authorized by Seller in writing. Buyer will reproduce and include all Seller proprietary and copyright notices and other legends both in and on every authorized copy of Software. Buyer may transfer the Software in conjunction with the resale of the Product or Buyer's product, in which the Software is installed or with which it is used, but only under terms consistent with and no less stringent than the terms set forth in this "Software License" section. Except for the foregoing, the Software may not be sublicensed, transferred, or loaned to any other party without Seller's prior express written consent. Buyer may not either itself or with the assistance of others, make modifications to the Software including, but not limited to, translating, decompiling, disassembling or reverse assembling, reverse engineering, creating derivative or merged works, or performing any other operation on Software to recover any other operation on Software, or to recover any portion of the program listing, object code or source code or any information contained therein.

23. Foreign Corrupt Practices Act and Anti-Bribery Laws. Buyer agrees to comply with the Foreign Corrupt Practices Act, the UK Bribery Act of 2010, and all applicable anti-bribery laws. Buyer specifically represents and warrants that, in connection with the performance of its activities under an Order covered by these Terms of Sale, neither it, nor anyone acting on its behalf, has or will, directly or indirectly, offer, pay, promise to pay, or authorize the giving of, any money or thing of value to any Government Official or to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a Government Official, for the purpose of influencing any act or decision of such Government Official, including any act or decision to fail to perform his/her lawful duty, or for the purpose of inducing such Government Official to use his/her influence with any government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality to obtain or retain business for any person. "Government Official" means any officer, employee, agent, representative, or any other person acting in an official capacity for or on behalf of a government, government-owned or government-controlled entity or instrumentality, public international organization, political party, party official or political candidate.

24. Compliance with Laws.

24.1 Each Party represents, warrants, and certifies that it will comply with all laws applicable to its contractual obligations and to the Products and/or the activities contemplated or provided under an Order covered by these International Terms of Sale, including, but not limited to, any national, international, federal, state, provincial or local law, treaty, convention, protocol, common law, regulation, directive or ordinance and all lawful orders, including judicial orders, rules and regulations issued thereunder, including without limitation those dealing with the environment, health and safety, employment, records retention, personal data protection, and the transportation or storage of Hazardous Materials.

24.2 Seller represents, warrants, and certifies that it will comply with applicable industry practices, including the exercise of that degree of skill, diligence, prudence and foresight, which can reasonably be expected from a competent Seller who is engaged in the same type of manufacture or service under similar circumstances.

25. In the event that an Order pertains only to labor services being provided by Seller to Buyer, the words "Product" and "Products" shall mean "services." In addition, Sections 4, 5, 6.1, 6.2, 9.1, 9.2, 9.4, 14, 24, and 25 are not applicable to such services provided by Seller.

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26. Order of Precedence. In the event that two or more provisions in a particular Order conflict and there is no reasonable interpretation that resolves the conflict in a manner that is consistent with the entire Order, then the parties shall resolve the conflict using the following descending order of precedence: (a) Seller's written acceptance of the Order, (b) any unique term(s) specified in the accepted Order, (c) these International Terms of Sale, and (d) the statement of work (if any).

27. EU General Data Protection Regulation. The Parties shall not transmit any Personal Data, as defined in Article 4 of the European Union's General Data Protection Regulation (GDPR), under this Order.

28. Environment, Health and Safety

28.1 General. As used in these Terms, the phrase "Hazardous Materials" shall mean any substance or material defined as a hazardous material, hazardous substance, toxic substance, pesticide or dangerous article under U.S. Government Code of Federal Regulations 49 CFR 171.8 or any other substance regulated on the basis of potential impact to safety, health or the environment pursuant to an applicable requirement of any entity with jurisdiction over the Products, which is subject to an Order. For Orders in which Seller agrees to inspection by Buyer on the premises of Seller, Buyer shall be permitted to enter Seller's premises at a mutually agreed time for the purpose of Buyer's inspection of Seller's compliance with applicable hazardous materials regulations under an Order, provided that Buyer gives Seller reasonable advance written notice and that such visit will not disrupt or delay Seller's performance or normal business operations. Buyer shall be required to comply with Seller's safety and security policies and applicable export laws at Buyer's sole expense. In the event Buyer is unable to comply with Seller's safety and security policies and/or applicable export laws, including but not limited to, applicable export authorizations, Buyer's right to enter Seller's premises shall be null and void.

28.2 WEEE Compliance. EU Directive 2012/19, recast, on waste electrical and electronic equipment ("WEEE") and national laws and regulations implementing the WEEE directive, as amended from time to time, (collectively "WEEE Regulations") provide for the marking, collection, recycling, take-back, recovery, treatment, and/or environmentally sound disposal of WEEE. Where Buyer imports, places on the market, resells, or distributes the Products to third parties, or where Buyer acts in a manner that would result in Buyer being deemed a "producer" of the Products within the meaning of any relevant WEEE Regulations, Buyer agrees that Buyer qualifies as and is deemed the "producer" of all such Products. Buyer shall be solely responsible for complying with all applicable WEEE Regulations in any jurisdiction in connection with all WEEE arising or deriving from the Products and for all associated costs. Buyer agrees that any subsequent re-transfer or re-export of equipment or technical data to a party, who was not identified to Seller at the time of the original export from the United States, to manage the collection, recycling, take-back, recovery, treatment, and/or environmentally sound disposal of WEEE, is subject to all United States export laws. Buyer shall be responsible for passing on to all successive buyers to the end-user terms consistent with and no less stringent than the terms set forth in: (i) this "WEEE Compliance" clause and (ii) the "Compliance with Export Laws" clause included in this Order. Buyer agrees to indemnify and hold harmless Seller, its officers, directors, employees, agents, parent, subsidiaries, and affiliates from and against any and all loss or liability for any and all claims, losses, demands, expenses, penalties or costs (including attorneys' fees) resulting from failure of Buyer to comply with this clause.

29. Resale Requirements

Devices are enterprise edition models not intended for consumer resale or general consumer use. Accordingly, Buyer may only resell the Devices to Customers, and only via its branded storefronts or portals. Buyer may not permit Customers to resell devices. Buyer is only authorized to resell Devices in the following Authorized Territory: United States, Canada, New Zealand, Australia, European Union, and European Free Trade Association.

30. Customer Disclosure

Buyer agrees to provide the following disclosure to Customers prior to their purchase of Devices and will include it on or with the physical Device packaging:

Microsoft Hololens Commercial Suite: The Microsoft Hololens Commercial Suite is for developers and enterprise purposes only. By purchasing, you hereby agree not to resell the product. All sales are final and non-refundable, and has a limited warranty (<https://www.microsoft.com/microsoft-hololens/enus/support/warranty>). This product is not intended for use by children under the age of 13. By purchasing you also agree to the software license here (<https://www.microsoft.com/enus/UseTerms/OEM/Windows/10Mobile/UseTermsOEMWindows10MobileEnglish.htm>). The

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product, and related services and support, are in English only. Export restrictions: Microsoft is only making available for purchase the product in certain countries, and the product will be certified to meet hardware compliance requirements for these countries only. Microsoft cannot effectively prevent you from after-purchase transport of the product, but any such transport and use of the product is done solely at your discretion, without approval by or consultation with Microsoft, and you are entirely responsible and liable for any legal compliance and export requirements associated with your transport and use of the product.

31. Use of Microsoft Marks

Buyer will comply at all times with Microsoft's Trademark and branding guidelines, including the guidelines at <http://www.microsoft.com/enus/legal/IntellectualProperty/Trademarks/Usage/General.aspx>, and <http://news.microsoft.com/presskits/hololens/lsm.000161d4hpndrdcopec2exm3htmdb>. This Addendum does not grant or transfer to Buyer any right, title, interest or license in or to any trademarks, service marks, logos and trade names of Microsoft or its Affiliates ("**Marks**"). All use of any such Marks by Buyer will inure to Microsoft's benefit. All marketing by Buyer that references or uses Microsoft or Microsoft Hololens branding requires pre-approval by Microsoft.

32. Reporting

Buyer will provide Seller with a monthly report of Devices sold and serial numbers for each Device and the associated Customer.

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APPENDIX A MICROSOFT HOLOLENS ENTERPRISE LIMITED WARRANTY

THE DEVICES ARE SUBJECT TO THE FOLLOWING ONE-YEAR LIMITED WARRANTY. IF YOU LIVE IN (OR, IF YOU ARE OR REPRESENT A BUSINESS, YOUR PRINCIPAL PLACE OF BUSINESS IS IN) THE UNITED STATES, SECTION 7 CONTAINS A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER. IT AFFECTS YOUR RIGHTS ABOUT HOW TO RESOLVE ANY DISPUTE WITH MICROSOFT. PLEASE READ IT.

This warranty gives you specific legal rights. You may also have other rights that vary from State to State or Province to Province.

1. Warranty - For one year from the date you purchased your Device (“**Warranty Period**”), Microsoft warrants, only to you, that the Device will not malfunction due to a defect in materials or workmanship under Normal Use Conditions. Except where prohibited by applicable law, this warranty is non-transferrable and is limited to you. This is the only warranty Microsoft gives for your Device. Microsoft gives no other guarantee, warranty, or condition. No one else may give any guarantee, warranty, or condition on Microsoft’s behalf.

If your State’s or Province’s law gives you any implied warranty, including an implied warranty of merchantability or fitness for a particular purpose, its duration is limited to the Warranty Period. Some States or Provinces do not allow limitations on how long an implied warranty lasts, so this limitation may not apply to you.

Other Definitions. “**You**” means the original end-user of the Device. “**Normal Use Conditions**” means ordinary consumer use under normal conditions according to the instruction manual. “**State**” means a State, the District of Columbia, and any other United States territory or possession. “**The United States of America**” includes all of the States. “**Province**” means a Canadian province or territory.

2. How to Request Warranty Service

2.1 Obtain Microsoft’s permission to return the device and an “RMA” number, all in accordance with the online process described at the link immediately above;

2.2 Back up your Device’s hard disk drive and keep a copy of any data (including photographs, documents, video, music, etc.) or programs you want to save. **Microsoft is not responsible for your data or programs and will erase them. If Microsoft replaces your Device, you will receive a different hard disk drive without any of your data or programs on it; if you have not backed up your data and programs before you sent the Device to Microsoft, they will be gone forever, and Microsoft will have no way of retrieving them for you;**

2.3 Delete from the Device anything you consider confidential. **Microsoft is not responsible for your privacy if you leave confidential information on your Device;** and

2.4 Remove from the Device (and do not send to Microsoft) any peripheral items that may be plugged into ports on the Device (e.g., memory cards, USB drives, etc.); **Microsoft is not responsible for your peripherals, and there is no guarantee that anything you send to Microsoft in connection with warranty service will be returned.**

Follow the online process at <https://support.microsoft.com>

Preparing your Device. Before sending your Device to Microsoft, you must:

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3. Microsoft's Responsibility

After you return Device to Microsoft, Microsoft will inspect it. If Microsoft determines that the Device malfunctioned due to a defect in materials or workmanship during the Warranty Period under Normal Use Conditions, Microsoft will (at its option) repair or replace it, or refund the purchase price to you. Repair may use new or refurbished parts. Replacement may be with a new or refurbished unit. After repair or replacement, your Device will be covered by this warranty for the longer of the remainder of your original Warranty Period, or 90 days after Microsoft ships it to you. Microsoft's responsibility to repair or replace your Device, or to refund the purchase price, is your exclusive remedy. If your Device malfunctions after the Warranty Period expires, there is no warranty of any kind. After the Warranty Period expires, Microsoft may charge you a fee for its efforts to diagnose and service any problems. IF MICROSOFT REPLACES YOUR DEVICE, THE REPLACEMENT DEVICE WILL INCLUDE SOLELY MICROSOFT'S THEN-CURRENT SOFTWARE IMAGE. YOUR DATA, PROGRAMS, AND ANYTHING ELSE YOU MAY HAVE STORED ON THE RETURNED DEVICE WILL NOT BE REINSTALLED OR REIMAGED ONTO THE REPLACEMENT DEVICE OR OTHERWISE RETURNED TO YOU, AND MICROSOFT WILL NOT BE ABLE TO RETRIEVE ANYTHING FROM THE REPLACED DEVICE. YOU MUST BACKUP ALL DATA AND PROGRAMS, AND REMOVE ALL PERIPHERALS, BEFORE RETURNING YOUR DEVICE TO MICROSOFT. 17

4. Warranty Exclusions

4.1 Microsoft is not responsible and this warranty does not apply if your Device is:

4.1.1 damaged by use with products not sold or licensed by Microsoft;

4.1.2 opened, modified, or tampered with (including, for example, any attempt to defeat or circumvent any Microsoft technical limitation or security mechanism, etc.), or its serial number is altered or removed;

4.1.3 damaged by any external cause (including, for example, by being dropped, exposed to liquid, used with inadequate ventilation, etc., acts of God, power surge, misuse, abuse, negligence, accident, mishandling, misapplication, failure to follow instructions, or other causes unrelated to defects in the Device);

4.1.4 scratched, dented, etc. or shows other cosmetic damage (and Microsoft determines that your issues with the Device relate to such scratches, dents, or other cosmetic damage); or

4.1.5 repaired, modified, or altered by anyone other than Microsoft.

4.2 Microsoft is not responsible and this warranty does not apply if your Device is used with an operating system other than the Windows operating system preinstalled in your Device, or any contemporaneous or later version of that operating system.

4.3 This warranty does not apply to consumable parts that are designed to diminish over time, including normal wear and tear, unless the failure has occurred due to a defect in materials or workmanship.

4.4 Microsoft does not guarantee that your use of the Device will be uninterrupted, timely, secure, or error-free, or that data loss will not occur.

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5. EXCLUSION OF CERTAIN DAMAGES

MICROSOFT IS NOT RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; ANY LOSS OF DATA, PRIVACY, CONFIDENTIALITY, OR PROFITS; OR ANY INABILITY TO USE YOUR DEVICE. THESE EXCLUSIONS APPLY EVEN IF MICROSOFT HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES, AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. Some States or Provinces do not allow the exclusion or limitation of incidental or consequential damages, so this limitation or exclusion may not apply to you.

6. Additional Terms

If you attempt to defeat or circumvent any Device technical limitation or security system, you may cause your Device to stop working permanently. You will also void your warranty, and make your Device ineligible for authorized repair, even for a fee.

7. BINDING ARBITRATION AND CLASS ACTION WAIVER IF YOU LIVE IN (OR, IF YOU ARE OR REPRESENT A BUSINESS, YOUR PRINCIPAL PLACE OF BUSINESS IS IN) THE UNITED STATES

7.1 This section applies to any dispute EXCEPT DISPUTES RELATING TO THE ENFORCEMENT OR VALIDITY OF YOUR, YOUR LICENSORS', MICROSOFT'S, OR MICROSOFT'S LICENSORS' INTELLECTUAL PROPERTY RIGHTS.

The term "dispute" means any dispute, action, or other controversy between you and Microsoft concerning the Device (including its price), any related software or services, or this warranty, whether in contract, warranty, tort, statute, regulation, ordinance, or any other legal or equitable basis. The term "dispute" will be given the broadest possible meaning allowable under law.

7.2 Notice of Dispute. In the event of a dispute, you or Microsoft must give the other a Notice of Dispute, which is a written statement that sets forth the name, address, and contact information of the party giving it, the facts giving rise to the dispute, and the relief requested. You must send any Notice of Dispute by U.S. Mail to Microsoft Corporation, ATTN: LCA ARBITRATION, One Microsoft Way, Redmond, WA 98052-6399, U.S.A. A form is available on the Corporate, External, and Legal Affairs (CELA) website (<http://go.microsoft.com/fwlink/?LinkId=245499>). Microsoft will send any Notice of Dispute to you by U.S. Mail to your physical address, if we have it, or otherwise to your email address. You and Microsoft will attempt to resolve any dispute through informal negotiation within 60 days from the date the Notice of Dispute is sent. After 60 days, you or Microsoft may commence arbitration.

7.3 Small Claims Court. You may also litigate any dispute in small claims court in your county of residence (or, if you are or represent a business, your principal place of business) or King County, Washington, U.S.A., if the dispute meets all requirements to be heard in the small claims court. You may litigate in small claims court whether or not you negotiated informally first.

7.4 Binding Arbitration. If you and Microsoft do not resolve any dispute by informal negotiation or in small claims court, any other effort to resolve the dispute will be conducted exclusively by individual binding arbitration governed by the Federal Arbitration Act ("FAA"). Class arbitrations are not permitted. You are giving up the right to litigate disputes in court before a judge or jury (or participate in court as a party or class member). Instead, all disputes will be resolved before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the FAA. Any court with jurisdiction over the parties may enforce the arbitrator's award.

7.5 Class Action Waiver. Any proceedings to resolve or litigate any dispute in any forum will be conducted solely on an individual basis. Neither you nor Microsoft will seek to have any dispute heard as a class action,

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private attorney general action, or in any other proceeding in which either party acts or proposes to act in a representative capacity. No arbitration or other proceeding will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.

7.6 Arbitration Procedure. Any arbitration will be conducted by the American Arbitration Association (the "AAA") under its Commercial Arbitration Rules. If the value of the dispute is \$75,000 or less whether or not you are an individual, its Supplementary Procedures for Consumer-Related Disputes will also apply. For more information, see www.adr.org or call 1-800-778-7879. To commence arbitration, submit the form available on the Corporate, External, and Legal Affairs (CELA) website (<http://go.microsoft.com/fwlink/?LinkId=245497>) to the AAA. You agree to commence arbitration only in your county of residence (or, if you are or represent a business, your principal place of business) or in King County, Washington, U.S.A. Microsoft agrees to commence arbitration only in your county of residence (of, if you are or represent a business, your principal place of business). You may request a telephonic or in-person hearing by following the AAA rules. In a dispute involving \$10,000 or less, any hearing will be telephonic unless the arbitrator finds good cause to hold an in-person hearing instead. The arbitrator may award the same damages to you individually as a court could. The arbitrator may award declaratory or injunctive relief only to you individually, and only to the extent required to satisfy your individual claim.

7.7 Arbitration Fees and Payments

7.7.1 Disputes Involving \$75,000 or Less. Microsoft will promptly reimburse your filing fees and pay the AAA's and arbitrator's fees and expenses. If you reject Microsoft's last written settlement offer made before the arbitrator was appointed ("Microsoft's last written offer"), your dispute goes all the way to an arbitrator's decision (called an "award"), and the arbitrator awards you more than Microsoft's last written offer, Microsoft will: (1) pay the greater of the award or \$5,000; (2) pay your reasonable attorney's fees, if any; and (3) reimburse any expenses (including expert witness fees and costs) that your attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration. The arbitrator will determine the amount of fees, costs, and expenses unless you and Microsoft agree on them.

7.7.2 Disputes Involving More than \$75,000. The AAA rules will govern payment of filing fees and the AAA's and arbitrator's fees and expenses.

7.7.3 Disputes Involving Any Amount. In any arbitration you commence, Microsoft will seek its AAA or arbitrator's fees and expenses, or your filing fees if reimbursed, only if the arbitrator finds the arbitration frivolous or brought for an improper purpose. In any arbitration Microsoft commences, Microsoft will pay all filing, AAA, and arbitrator's fees and expenses. Microsoft won't seek its attorney's fees or expenses from you in any arbitration. Fees and expenses are not counted in determining how much a dispute involves.

7.8 Conflict with AAA Rules. This warranty governs to the extent it conflicts with the AAA's Commercial Arbitration Rules and Supplementary Procedures for Consumer-Related Disputes.

7.9 Claims or Disputes Must Be Filed Within One Year. To the extent permitted by law, any claim or dispute to which this **Section 7** applies must be filed within one year in small claims court (**Section 7(c)**), or in arbitration (**Section 7(d)**), or in court, if **Section 7** permits the dispute to be filed in court instead of arbitration. The one-year period begins when the claim or Notice of Dispute first could be filed. If such a claim or dispute is not filed within one year, it is permanently barred.

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7.10 Severability. If the class action waiver in **Section 7(e)** is found to be illegal or unenforceable as to all or some parts of a dispute, then **Section 7** won't apply to those parts. Instead, those parts will be severed and proceed in a court of law, with the remaining parts proceeding in arbitration. If any other provision of **Section 7** is found to be illegal or unenforceable, that provision will be severed with the remainder of **Section 7** remaining in full force and effect.

7.11 Contracting Party and Choice of Law

7.11.1 United States. If you live in (or, if you are or represent a business, your principal place of business is in) the United States, you are contracting with Microsoft Corporation, One Microsoft Way, Redmond, WA 98052, U.S.A. The laws of the State where you live (or, if you are or represent a business, where your principal place of business is located) govern the interpretation of this warranty, claims for breach of it, and all other claims (including consumer protection, unfair competition, and tort claims), regardless of conflict of law principles, except that the FAA governs all provisions relating to arbitration.

7.11.2 Canada. If you live in (or, if you are or represent a business, your principal place of business is in) Canada, you are contracting with Microsoft Corporation, One Microsoft Way, Redmond, WA98052, U.S.A. The laws of the Province where you live (or, if you are or represent a business, where your principal place of business is located) govern the interpretation of this warranty, claims for breach of it, and all other claims (including consumer protection, unfair competition, and tort claims), regardless of conflict of law principles.

8. All parts of this warranty apply to the maximum extent permitted by law or unless prohibited by law (in which case the remainder of this warranty will remain in effect). Buyer may have greater rights existing under legislation in your State or Province.

9. This warranty is valid only in the United States of America and Canada.

Microsoft's address in the United States: Microsoft Corporation, One Microsoft Way, Redmond, WA 98052.

Microsoft's address in Canada: Microsoft Canada Inc., 1950 Meadowvale Blvd., Mississauga, Ontario, L5N 8L9.