

## Terms and Conditions of Sale

The terms and conditions detailed herein (the "Terms and Conditions") apply to your ("Customer") purchase from NINL of National Instruments ("NI") hardware ("Hardware"), licenses to use NI software ("Software"), and Non-NI Branded Products (collectively the "Product(s)"), as well as training, services and support related to NI Hardware and Software ("Services"). "NI" means National Instruments and "NINL" means National Instruments Netherlands B.V., a subsidiary of National Instruments Corporation (a Delaware Corporation with headquarters at 11500 North Mopac Expressway Austin, Texas 78759, U.S.A.) or, as applicable, another National Instruments affiliate identified on the quote, order acknowledgement, or invoice. When a reference is made in these Terms and Conditions to NI products, services, technology, brand or intellectual property rights, NI shall include both NINL and National Instruments Corporation. National Instruments Products and Services are commercially available, standard, off-the-shelf products and services sold to a diverse customer base from many industries and are not designed, tested or customized for the specific end-use purposes of the Customer. By placing an order with NINL, Customer agrees to be bound by the terms of these Terms and Conditions. NINL expressly objects to and rejects, and customer expressly waives, any terms and conditions in Customer's purchase orders or other similar documents. If Customer does not agree with these terms, it shall promptly notify NINL and return the Product unused in its original packaging to NINL.

1. **TITLE AND RISK.** Risk of loss or damage to Products shall pass to Customer upon shipment from NINL, its warehouses, or its affiliated companies; provided however, NINL retains title to the Products until Customer makes payment to NINL in full. Notwithstanding, NINL retains title to all Software.

2. **TAXES.** Prices exclude, and Customer is responsible for, all sales, use, service, value added, and like taxes ("Taxes") arising from the purchase of the Products and Services. If Customer is exempt from any Taxes, it must provide NINL with the appropriate tax exemption documentation at the time the order is placed.

3. **PRICES AND PAYMENT.** Unless NINL approves Customer for credit terms, payment shall be made when the order is placed by credit card or direct credit transfer or in cash on delivery. Payment shall be in Euro. If NINL approves Customer's credit application, payment shall be due no later than thirty (30) days after the date of NINL's invoice. Upon a written request of NINL, all sums not paid when due, shall accrue interest daily at a monthly rate of the lesser of 1.5% or the highest rate permissible by applicable law. NINL reserves the right to cancel Customer's credit terms at any time. Invoice processes requested by Customer that are non-standard for NI may be subject to the payment by Customer of a five percent (5%) processing fee and any amounts NINL is required to pay to government authorities on behalf of customers (if applicable).

4. **ORDERS.** All orders are subject to acceptance by NINL. NINL's booking of an order shall constitute its acceptance of an order. NINL shall not be bound by changes to an order unless agreed by NINL in writing. NINL reserves the right to cancel any order without any liability to Customer if any information provided by Customer to NINL is inaccurate. NINL reserves the right to suspend or cancel any order without any liability to Customer if Customer has any outstanding payments due to NINL.

5. **DELIVERY.** NINL shall deliver Products to a carrier at NI's plant. For orders to be delivered within the same country as the NI entity accepting the order, NI will arrange the shipping; however, Customer is responsible for all shipping and handling fees set forth in the invoice, unless otherwise indicated by NI. Upon written confirmation from NI, Customer may choose to arrange for shipping with a carrier previously approved by NI, but in this case or if the order is placed with an NI entity outside the Netherlands, Customer is responsible for all shipping and handling, including fees, customs, formalities and clearance, except that NI is responsible for the Export Declaration. Customer shall provide NI with the necessary information for the Export Declaration, in a timely manner. Orders are entered as close as possible to the Customer's requested shipment date, if any. Shipment dates provided by NINL are estimates only, and NINL shall have no liability for losses or claims resulting from late delivery of Products. Shipment dates are scheduled after acceptance of orders and receipt of necessary documents. Claims for shipment shortage shall be deemed waived unless presented to NINL in writing within forty-five (45) days of shipment. NI may, in its sole discretion, without liability or penalty, make partial shipments of Products to Customer. Each shipment will constitute a separate sale, and Customer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Customer's purchase order.

6. **SOFTWARE.** Software is licensed pursuant to the software license agreements provided with the software or, in the absence of such license agreements, the National Instruments Software License Agreement available at <http://www.ni.com/legal/license/> at the time of order. All software is licensed, not sold, and title to the software remains with the applicable licensor(s).

7. **NON-NI BRANDED PRODUCTS.** Non-NI Branded Products that NINL resells may not be testable or repairable by NINL, and it may be necessary for Customer to contact the manufacturer or the publisher for service or any warranty claims. To the extent it is not prohibited by applicable law, NINL does not warrant, has no obligation to support, and hereby excludes all liability (including but not limited to any statutory or implied liability for product defects or non-infringement) for Non-NI Branded Products. The Limited Warranty and NI Intellectual Property Liability sections of these Terms and Conditions do not apply to the sale and purchase of Non-NI Branded Products. "Non-NI Branded Product(s)" means any third-party hardware, software, or service that NINL (re)sells, but does not carry an NI mark.

8. **SERVICES.** In addition to the terms and conditions of these Terms and Conditions, Services provided by NINL are subject to any service agreements or statements of work agreed upon in writing by the parties or, as applicable, to the NINL service terms and conditions, available at [ni.com/legal/service/terms](http://ni.com/legal/service/terms).

9. **IP RIGHTS.** NINL reserves all right, title, and interest in any intellectual property rights contained or embodied in Products, or resulting from the Services, including any custom developments created or provided by NINL. Nothing in these Terms and Conditions will be deemed to grant to Customer any ownership rights in or license rights to such intellectual property.

(a) **LIMITED WARRANTY.** For a period of one (1) year from the shipping date, NINL warrants that its Hardware will be free of defects in materials and workmanship that cause the Hardware to fail to substantially conform to the then applicable NI published

specifications and will provide Technical Support in accordance with the Support Services Terms and Conditions available at [ni.com/legal/serviceterms/](https://ni.com/legal/serviceterms/). For a period of ninety (90) days from the invoice date, NINL warrants that the Software (i) will perform substantially in accordance with the applicable documentation provided with the Software and (ii) the Software media will in the form received from NINL be free from defects in materials and workmanship. NINL warrants that the Services will be performed in a good and workmanlike manner. Except as expressly stated in the preceding sentence, NINL makes no express or implied warranties with respect to the Services, including but not limited to (a) any warranty relating to third-party products or (b) any warranty concerning the results to be obtained from the services or the results of any recommendation NINL may make, including without limitation any implied warranties concerning the performance, merchantability, suitability, non-infringement or fitness for a particular purpose of any of the deliverables or of any system that may result from the implementation of any recommendation NINL may provide. In order to receive warranty remedies, deficiencies in the Services must be reported to NINL in writing within 90 days of completion of the Services. If NINL receives notice of a defect or non-conformance during the applicable warranty period, NINL will, in its sole discretion: (i) repair or replace the affected Hardware or Software, (ii) re-perform the affected Services, or (iii) refund the fees paid for the affected Hardware, Software or Services. Repaired or replaced Hardware or Software will be warranted for the remainder of the original warranty period or ninety (90) days, whichever is longer. If NINL elects to repair or replace Hardware, NINL may use new or refurbished parts or products that are equivalent to new in performance and reliability and are at least functionally equivalent to the original part or Hardware. Customer must obtain an RMA number from NINL before returning any Hardware under warranty to NINL. Customer will pay shipping expenses to send the affected Hardware to the applicable NI Service Center, and NI will pay shipping expenses to return the Hardware to the Customer. If, however, NINL concludes, after examining and testing returned Hardware, that it is not covered by the Limited Warranty, NINL will notify Customer and return the Hardware at Customer's expense. NINL reserves the right to charge a fee for examining and testing Hardware not covered by the Limited Warranty. This Limited Warranty does not apply if the defect of the Hardware or Software resulted from improper or inadequate maintenance, installation, repair, or calibration (performed by a party other than NINL); unauthorized modification; improper environment; use of an improper hardware or software key; improper use or operation outside of the specifications for the Hardware or Software; improper voltages; accident, abuse, or neglect; or a hazard such as lightning, flood, or other act of nature.

10. **NO OTHER WARRANTIES.** Except as expressly set forth above, the Products are provided "as is" without warranty of any kind, and no other warranties, either expressed or implied are made with respect to all Products, including but not limited to any implied warranties of merchantability, fitness for a particular purpose, title or non-infringement or any other warranties that may arise from usage of trade or course of dealing. NINL does not warrant, guarantee, or make any representations regarding the use of or the results of the use of the Products in terms of correctness, accuracy, reliability, or otherwise and does not warrant that the operation of the Products will be uninterrupted or error free. NINL expressly disclaims any warranties not stated herein.

11. **LIMITATION OF LIABILITY.** NINL is not liable for any incidental, indirect, special, or consequential damages, expenses, lost profits, lost savings, business interruption, lost business information, or any other damages arising out of the use or inability to use the Products or the Services provided by NINL, including without limitation loss of use of the Products or any other software or data, including inability to achieve a particular result. NINL's total liability arising out of or in connection with any event or series of connected events occurring in connection with the Products or the Services shall not exceed the purchase price paid for the specific Product that caused such damage or the amount of fees under the separate written service agreement between Customer and NINL. NINL's pricing reflects this allocation of risk and the limitation of liability specified herein. In no event shall NINL's liability for damage exceed fifty thousand euros (EUR 50,000).

12. **CUSTOMER REMEDIES.** NINL's sole obligation (and Customer's sole remedy) with respect to the foregoing Limited Warranty shall be to, at its sole discretion, return the fees paid or repair/replace any defective Products, provided that NINL receives written notice of such defects during the applicable warranty period.

13. **RETURN POLICY.** Subject to the requirements of these Terms and Conditions, Customer may return standard Products within thirty (30) days of the invoice date. NINL reserves the right to charge Customer a fifteen percent (15%) restocking fee for any Products returned to NINL. No returns will be accepted after the thirty (30) day period has expired. A Return Material Authorization (RMA) number is required for Customer to return any Products. Acceptance of returns of any customized Products and Non-NI Branded Products is in the sole discretion of NINL.

14. **IP INDEMNITY.** NINL shall settle and/or defend at its own expense and fully pay any resulting awards and settlements including also Customer's reasonable legal fees arising from any claim, demand, suit or action against Customer (hereinafter "Claim") to the extent such Claim alleges that the Products as supplied by NINL, or the use of the Products infringes upon any patent or any trademark or copyright, provided that Customer notifies NINL immediately upon learning of any such Claim or any allegation that the grounds for a Claim may exist, Customer grants NINL sole control over the defense and settlement of the Claim, and cooperates fully with NINL in preparing a defense for any Claim. NINL shall not be liable for any costs incurred by the Customer with respect to a settlement made without NINL's prior written consent. Notwithstanding the foregoing, NINL shall have no obligation under this Section for any claims of infringement by the Products or Services outside the geographical boundaries of the United States, Canada, Mexico, Japan, Australia, Switzerland, Norway, the United Kingdom or the European Union. NINL shall have no obligation under this Section for any claim relating to or arising from (a) Customer's modifications of Hardware, Software or Services; (b) failure to use Hardware, Software or Services in accordance with the applicable documentation provided by NINL; (c) the combination, operation, or use of Hardware, Software or Services with any hardware, software or service not provided by NINL; (d) the compliance of NINL with Customer's specifications or directions, including the incorporation of any software or other materials provided by or requested by Customer; or (e) Non-NI Branded Products. The foregoing states the Customer's sole remedy for, and the entire liability and responsibility of NI for, infringement of any patent, trademark, or copyright or other intellectual property rights. THIS LIMITED INDEMNITY IS IN LIEU OF ANY OTHER STATUTORY OR IMPLIED WARRANTY AGAINST INFRINGEMENT. In any event, if NINL believes in its reasonable opinion the Hardware, Software or Services may be alleged to be infringing, for the purposes of mitigating any potential damages, NINL may, at its option, (i) procure for the Customer the right to continue to use the hardware, Software or Services; (ii) replace the them with comparable Hardware, Software or Services that are free of such infringement; or (iii) refund the fees paid by Customer, and in the event of either (ii) or (iii) Customer shall promptly return the Hardware to NI and/or terminate the use of the Software or Services.

15. **WARNING AND CUSTOMER INDEMNITY.** Customer understands and acknowledges that products and services are not designed, manufactured, or tested for use in life or safety critical systems, hazardous environments or any other environments requiring fail-safe performance, including in the operation of nuclear facilities; aircraft navigation; air traffic control systems; life saving or life sustaining systems or such other medical devices; or any other application in which the failure of the product or service could lead to death, personal injury, severe property damage or environmental harm (collectively "high-risk uses"). Further, customer must take prudent steps to protect against product and service failures, including providing back-up and shut-down mechanisms. In addition, Customer acknowledges and accepts that the functioning of the Software could be adversely affected by external causes, like power failures, failures of computer hardware, operating systems or compilers, installation errors, incorrect use or lack of adequate precautions. NINL expressly disclaims any express or implied warranty of fitness of the products or services for high-risk uses. Customer shall defend, indemnify, release and hold NINL harmless from any and all claims, losses, damages, actions, including, lawsuits, arbitrations, and/or administrative actions, and expenses (including reasonable attorneys' fees) arising out of a) customer's use of the products and services for any high-risk uses, including arising from claims for product liability, personal injury (including death) or damage to property, regardless of whether such claims are founded in whole or in part upon alleged or actual negligence of NINL.

Customer acknowledges that it is ultimately responsible for verifying and validating the suitability and reliability of the products or services whenever the products or services are incorporated in Customer's system or application, including the appropriate design, process, and safety level of such system or application. Further, customer must take prudent steps to protect against product and service failures when products and services are incorporated in a system or application, including providing back-up and shut-down mechanisms. Customer shall defend, indemnify, release and hold NINL harmless from any and all claims, losses, damages, actions, including lawsuits, arbitrations, and/or administrative actions, and expenses (including reasonable attorneys' fees) arising out of customer's incorporation of the products or services into Customer's systems or application, regardless of whether such claims are founded in whole or in part upon alleged or actual negligence of NINL.

16. **FORCE MAJEURE.** NINL shall not be responsible for any delay or failure to perform due to any cause beyond its reasonable control, including but not limited to acts of terrorism, nature or governments; interruptions of telecommunications, power or transportation; failure of contractors or suppliers; or inability to obtain necessary labor or materials ("Force Majeure Event"). In the event of a Force Majeure Event, NINL reserves the right to cancel the applicable order without any liability to Customer.

17. **COMPLIANCE. Export Compliance.** Products (which, for purposes of this Section, shall include the software and technology incorporated in or supplied with a Product and Service) purchased from NINL are subject to control under the U.S. Export Administration Regulations (15 CFR Part 730 et. seq.) administered by the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") ([www.bis.doc.gov](http://www.bis.doc.gov)) and other applicable U.S. export control laws and sanctions regulations, including those administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") ([www.treas.gov/ofac](http://www.treas.gov/ofac)). In addition, Products distributed from NI's distribution center in Europe are subject to control under the Regulation (EU) 2021/821 of the European Parliament and of the Council and their export or intra-EU transfer may also be subject to additional licensing requirements under the Regulation (EU) 2021/821 of the European Parliament and of the Council and its implementing regulations. Products may not be exported or re-exported to any country where sanctions are imposed by the U.S. government (which currently includes Cuba, Iran, North Korea, Republic of Sudan and Syria but which may be modified by the U.S. government from time to time). Customer agrees it will comply with the export laws and trade sanctions of all applicable countries and will not export, re-export or transfer Products purchased from NINL without the required authorization, including an export or re-export license issued by the U.S. authorities, or to any prohibited destination or for a prohibited end-use. Products may also require export license(s) issued by the applicable authorities before being returned to NINL. The issuance of a Quote, a sales order acknowledgment, or a Return Material Authorization ("RMA") by NINL does not constitute export authorization. Customer represents and warrants it is not ineligible or otherwise restricted by U.S. or applicable law to receive Products and it will not export, re-export, or provide Products to any person or entity on OFAC's List of Specially Designated Nationals or on BIS's Denied Persons List, Entity List or Unverified List or any other applicable restricted party list. NINL reserves the right to refuse and/or cancel any order without any liability to Customer if, at any time, NINL believes that any export controls or trade sanctions laws may be violated. See [ni.com/legal/export-compliance](http://ni.com/legal/export-compliance) for more information and to request relevant import classification codes (e.g. HTS), export classification codes (e.g. ECCN), and other import/export data.

**Data protection.** Customer represents and agrees that any data (including personal data of Customer, its representatives, employees or agents) that is gathered by NI in the context of commercial transactions with Customer (e.g. name, contact details, title, professional background, field of expertise, product interests, etc.; hereinafter: "Customer Data") is data which is generally available to businesses in the normal course of Customer's business operations and is regarded as data related to, and provided in the context of, the professional activity of such representatives, employees, agents, and of the Customer. Customer hereby agrees on its own behalf and on behalf of its representatives, employees and agents that both NI may, in accordance with NI's privacy statement and applicable laws and regulations, (i) use such Customer Data for the purpose of account and contract administration, for security purposes, and for the development of the business relationship (including marketing communication about products and services relevant to Customer), and (ii) transfer such Customer Data to other NI companies including those located outside the European Economic Area for the purposes specified in (i).

**Consumer protection.** The Customer warrants and agrees that it is acting in the normal course of its business or trade and is not a consumer. In case the Customer is (either as a business reseller or educational institution) authorized by NI to distribute (whether in return for payment or free of charge) or otherwise make available (whether at the premises of the Customer or otherwise) the Products to end-users who are students (or hobbyists or other private individuals), the Customer shall comply with all applicable laws and regulations that apply to the distribution of the Products to end-users, including all applicable data protection laws, as well as any laws and regulations applicable to transactions with consumers (including, but not limited to providing sufficient pre-contractual information and usage instructions to consumers, complying with regulations for general terms and conditions for consumer transactions, granting consumers with statutory warranty and withdrawal rights, etc.), if applicable. The Customer shall indemnify and hold NI harmless against all liabilities, claims, including but not limited to third-party claims, costs and expenses (including reasonable attorney's fees) arising out of any failure of the Customer to comply with such laws and regulations."

18. **UPDATES.** NINL reserves the right to update these Terms and Conditions at any time, effective upon posting an updated version at <http://www.ni.com/legal/termsofsale/> however, the terms and condition in effect at the time of purchase shall apply to that purchase of Products or Services.

19. **REDENOMINATION.** Customer agrees that in the event that (i) the Euro ceases to be the primary official currency of the Netherlands, or (ii) the Euro ceases to be the primary official currency of the Euro zone, all payments for Products and Services shall be made in USD. The applicable conversion rate shall be determined by NINL, in its sole discretion, using the official EUR/USD exchange rate published by the European Central Bank on the date that the European Central Bank makes a public announcement and/or releases an official public statement that the Euro would cease to exist as an official currency of the Euro zone. In the event that the Euro ceases to be the primary official currency of the Netherlands credit terms of Customer will automatically be cancelled and all payments from Customer to NINL will be immediately payable. In such cases, NINL may in its discretion suspend or cancel deliveries of Products and the supply of Services until all monies due from Customer to NINL on any account have been received by NINL. Customer shall indemnify and hold NINL harmless against any reasonable loss, costs and expenses arising out of or related to the cessation of the Euro, the introduction of a new currency in the Netherlands or any statutory provisions (mandatory or not) applicable to such currency change, redenomination or conversion.

20. **ACKNOWLEDGMENT/GOVERNING LAW.** Customer acknowledges receipt of the Terms and Conditions, reading them, understands them and agrees to be bound by them. A waiver of any provision of these Terms and Conditions by NI shall not be construed as a waiver or modification of any other term hereof. If any part, term, or provision of these Terms and Conditions is held illegal, unenforceable, or in conflict with any applicable and enforceable law, the validity of the remaining portions or provisions of these Terms and Conditions shall not be affected. In such a case, the parties will use reasonable efforts to come to a new provision, term or part of the Terms and Conditions, which deviates as little as possible from the invalid, unlawful, non-binding or non-executable provision, term or part, taking into account the content and purpose of the Terms and Conditions. With respect to all orders accepted in the Netherlands, disputes arising therefrom or in connection therewith shall be exclusively governed by the laws of the Netherlands and shall be exclusively submitted to the jurisdiction of the competent court in Utrecht, the Netherlands.

October 2023 ET