

XEOS TECHNOLOGIES, INC.
TERMS AND CONDITIONS OF PRODUCT SALES

SECTION 1. SCOPE

- 1.1. The following terms and conditions (“**Xeos T&Cs**”) shall apply to the sale by Xeos Technologies, Inc. (“**Xeos**”) to the buyer (“**Buyer**”) of its own equipment and solutions (“**Products**”), unless otherwise agreed to in writing by Xeos.
- 1.2. Xeos and Buyer may hereinafter be jointly referred to as the “**Parties**”.

SECTION 2. APPLICABILITY AND ORDERING

- 2.1. Buyer shall submit written orders (each, an “**Order**”) specifying the specific Products ordered, and such other information as Xeos may require from time to time. An Order is not effective unless and until it is accepted by Xeos in writing, and Xeos reserves the right to decline to accept any Order in its sole discretion. Xeos T&Cs are the only terms that govern each Order and the provision of the Products by Xeos. The Parties hereby disclaim all terms which may be included on any Order submitted by Buyer and any of Buyer’s general terms and conditions, regardless of whether such terms are expressly set forth on the Order or acceptance of an Order is made conditional on acceptance of such terms. Any terms outside of these Xeos T&Cs purporting to govern an Order are hereby null and void. Provision of Products or fulfillment of Orders by Xeos does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend any terms of these Xeos T&Cs.
- 2.2. Acceptance by Buyer of an Order shall constitute acceptance, in turn and without reservation, of these Xeos T&Cs, even if such acceptance is made by means of an exchange of electronic mail or other equivalent electronic communication. In this sense, the acceptance by Buyer of an Order implies that the Buyer has read, understood, and accepted these Xeos T&Cs. These Xeos T&Cs shall apply to any Order accepted in writing by the Parties.

SECTION 3. BILLING AND PAYMENTS

- 3.1. Prices and payments will be in quoted currency, and payment shall be made by Buyer in invoiced currency. Invoice terms are net thirty (30) days unless otherwise specified in writing. Prices quoted are believed to be accurate; however, Xeos reserves the right to correct any inadvertent errors in these prices prior to acceptance of the Order.
- 3.2. Xeos reserves the right to modify or withdraw credit terms at any time without notice and to require guarantees, security, or payment in advance of the amount of credit involved. In the event payments are not made in a timely manner, Xeos may, in addition to all other remedies provided at law, either: (1) declare Buyer’s performance in breach and terminate the Order for default; (2) repossess the goods for which payment has not been made; (3) withhold future shipments under the Order until delinquent payments are made; (4) deliver future shipments under the Order on a cash with Order or cash in advance basis even after the

delinquency is cured; (5) charge interest on the delinquency at a rate of 1.5% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges, or inventory carrying charges; or (6) recover all costs of collection including reasonable attorney's fees; and (7) at Xeos's option combine any of the above rights and remedies as provided by law.

- 3.3. Taxes. Prices quoted in an Order do not include sums necessary to cover any taxes or duties including but not limited to Federal, Provincial, Municipal excise, sales or use taxes or import duties upon the production, sales, distribution, or delivery of goods or furnishing of services hereunder. Any taxes or duties that are due and owing under an Order shall be paid by the Buyer. Accordingly, Xeos reserves the right to revise the prices after the execution of an Order between the Parties to include any and all taxes or duties that may become due and Xeos may invoice Buyer for said additional amount.
- 3.4. Exclusion of Credit Offsetting. For all purposes of these Xeos T&Cs, the term "**Affiliate**" means, with respect to a specified entity, (i) an entity that directly or indirectly, through one or more intermediaries, owns more than 50% of the outstanding voting securities of that specified entity, and (ii) an entity that directly or indirectly through one or more intermediaries, is controlled by that specified entity, in each case where the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract interest or otherwise. All amounts that Buyer owes Xeos under an Order shall be due and payable according to the terms of the Order and these Xeos T&Cs. Buyer is prohibited from and shall not set off such amounts or any portion thereof, whether or not liquidated, against sums which Buyer asserts are due it, or its affiliates, under other transactions with Xeos, or its affiliates.

SECTION 4. SHIPMENT OF PRODUCTS

- 4.1. All shipments shall be made within the time specified on the Order or in accordance with Xeos's quoted lead time and monthly delivery rate, whichever is later. Buyer is responsible for all Shipping Costs. "Shipping Costs" include all costs associated with the import/export, shipment, or transfer of Products, including, but not limited to, postage, freight fees, transportation charges, handling costs, loading costs, packaging costs, insurance, import/export fees, customs fees, broker fees, duties, tariffs, governmental fees, and taxes.
- 4.2. Shipping Costs shall be prepaid by Buyer to Xeos upon receipt of the corresponding invoice for such charges. Xeos shall have the right to make early, accelerated and/or partial shipments in advance of the contractual delivery schedule, in its sole and absolute discretion.
- 4.3. Inspection and Acceptance. For all purposes of these Xeos T&Cs, the term "**Product Specifications**" means all documentation related to the Products, including, but not limited to, drawings, specifications, designs, patterns, samples, and data, disclosed by Xeos to Buyer. Buyer shall inspect and accept, or reject, Products delivered pursuant to the Order immediately after Buyer takes custody of such Products. In the event the Products do not comply with the applicable

Product Specifications, Buyer shall notify Xeos of such nonconformance and give Xeos a reasonable opportunity to correct any such nonconformance. Buyer shall be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event Xeos does not receive notification that the Products delivered hereunder do not comply with Xeos's drawings or specifications, within fifteen (15) days after Buyer takes custody of such Products. Unless otherwise agreed, Buyer shall have no right to conduct inspection at Xeos's facility. In the event Xeos agrees in writing that Buyer may inspect Products at Xeos's facility, any such inspection shall be conducted with reasonable prior notice by Buyer to Xeos and at reasonable times, on a non-interference basis, and such inspection shall not include the right to establish mandatory inspection points or enter proprietary or competition-sensitive areas of Xeos's facility.

- 4.4. Changes by Xeos. Xeos reserves the right to modify any Product, and any such modifications shall be accepted by Buyer in fulfillment of existing Orders, without liability or any obligation to Xeos to incorporate such changes, additions or improvements into any item or product manufactured, sold, or delivered prior to incorporation of the change, addition, or improvement. Xeos reserves the right to discontinue providing, producing, shipping, or servicing any Product at any time. No alteration, revision, or any other change of any type to any Products by Buyer or any third party is authorized by these Xeos T&Cs.

SECTION 5. BUYER'S REPRESENTATIONS, OBLIGATIONS, AND RESTRICTIONS

- 5.1. Buyer represents and warrants to Xeos that: (a) it has and will have during the term of an Order the right and authority to enter into these Xeos T&Cs and the Order and perform its obligations thereunder, and will render such performance in an accurate, thorough, and professional manner; and (b) Buyer and all of its activities will comply throughout the term of these Xeos T&Cs and the Order with all applicable laws and regulations. Unless otherwise agreed, Buyer shall be responsible for compliance with the export control laws and regulations of Canada, and when required by such laws and regulations shall obtain validated export and re-export licenses required for goods, services and technical data delivered under the Order. Xeos shall not be liable to Buyer for any failure to provide goods, services or technical data as a result of any following Canadian Government actions: (1) refusal to grant export or re-export license; (2) cancellation of export or re-export license; or (3) any subsequent interpretation of Canadian export laws and regulations, after the date of the Order, that limits or has a material adverse effect on the cost of Xeos's performance on the Order.
- 5.2. Buyer acknowledges and agrees that: (a) the Products, including, without limitation, Product Specifications, pricing, technology, and expertise are proprietary to, contain trade secrets of, and are Confidential Information of Xeos and its suppliers; and (b) Xeos and its suppliers retain all right, title, and interest in and to the Products and all portions thereof and documentation for distribution therewith, including any copies provided to or made by Buyer and any modifications thereto. Unless otherwise agreed in writing, all material, software, data processes, equipment, facilities and special tooling, which term includes but is not limited to jigs, dies, fixtures, molds, patterns, special taps, special gages, special test equipment, other special equipment and manufacturing aids and

replacements thereof, used in the manufacture of products covered by an Order, shall be and remain the property of Xeos. Xeos retains all rights, title and interest in drawings, engineering instructions, specifications, and all other written data, if any, furnished with the products.

- 5.3. Other than as expressly permitted by these Xeos T&Cs or required by law, Buyer shall not: (a) use, register, copy, sublicense, or distribute any Product or any of Xeos's or its suppliers' intellectual property rights in the Products, of any kind or type, registered or unregistered, arising under the law of any country ("**IP Rights**"); (b) alter, create derivative works of, edit, modify, or revise any Product or IP Right; (c) reverse engineer or compile, decompile, disassemble, or otherwise attempt to reconstruct or discover any source code or algorithms of any Product or any IP Right; (d) rent, lease, loan, electronically transfer, or otherwise make available a Product to another party other than through licensed purchase; (e) use a Product to create or support any commercially available service that replicates any function of any Product; (f) engage in any deceptive, misleading, illegal, or unethical practices detrimental to Xeos or any Product; or (g) permit any other party to do any of the foregoing.

SECTION 6. SOFTWARE LICENSE

- 6.1. In the event that any software or software documentation is provided to Buyer by Xeos in any form whatsoever under an Order and no software license agreement governing this sale has been signed between Buyer and Xeos, Buyer agrees to accept the terms and conditions stated below effective the date of the first delivery hereunder:
- (a) Subject to the terms and conditions herein, Xeos grants to Buyer a nonexclusive, nontransferable license to use the software or software documentation provided herein: (i) in the course of the normal operation in or with Products which are installed, or are intended to be installed (ii) in the analysis or the formatting of reports using data from such Products or, (iii) on Xeos or non-Xeos products that are used to test, maintain, download, or process information compiled by Products.
 - (b) Making copies of software or documentation except for one copy of documentation for archive purposes is prohibited unless specifically authorized by Xeos in writing. Should such copying be authorized, Buyer will reproduce and include all Xeos proprietary and copyright notices and other legends in the same manner that Xeos provides such notices and legends, both in and on every copy of licensed software and documentation and in any form.
 - (c) The software license and rights granted by Xeos to Buyer hereunder are personal to Buyer. The licensed software and documentation may not be sub-licensed, transferred, or loaned to any other party without Xeos's prior express written consent, except that Buyer may transfer the licensed software and documentation in conjunction with the resale of any flight equipment or Xeos supplied test equipment in which the licensed software and documentation is installed or with which it is used. Such permission to transfer is contingent upon the resale or transfer of Buyer's agreement to use and protect the confidentiality of the licensed software and documentation under the same or similar terms as those set forth in this

software license. Buyer will, however, notify Xeos in writing of the transfer of the licensed software and documentation.

- (d) Buyer agrees to utilize all licensed software and documentation only as authorized herein.
- (e) Buyer may not either itself or with the assistance of others, make modifications to the licensed software and documentation, including, but not limited to, translating, decompiling, disassembling or reverse assembling, reverse engineering, creating derivative or merged works, or performing any other operation on licensed software and documentation to recover any other operation on licensed software and documentation to recover any portion of the program listing, object code or source code or any information contained therein.
- (f) Buyer agrees to accept and retain licensed software and documentation in confidence.
- (g) Buyer agrees to take appropriate action by instruction, agreement or otherwise with Buyer's employees, or agents or other persons who are permitted access to licensed software and documentation as follows to inform said employees, agents or other persons who may come into contact with it of the confidential nature of licensed software and documentation; and to satisfy its obligations under this software license with respect to use, copying, and protection and security of licensed software and documentation.
- (h) This software license is effective as of the date of first delivery hereunder and shall continue until terminated by Buyer for any reason whatsoever upon thirty (30) days prior written notice to Xeos, provided Buyer ceases using and either returns or destroys Xeos software and documentation; or by Xeos, if Buyer does not comply with any of the terms and conditions of this software license and Buyer fails to remedy such failure within thirty (30) days after having received notice from Xeos of such failure.
- (i) Buyer agrees that it will not use the licensed software and documentation in the performance of a contract, or subcontract, with any Government in a manner so as to affect Xeos's rights to licensed software and documentation. If Buyer desires to use the licensed software or documentation in the performance of a contract or subcontract with a Government, prior to such use, Buyer shall consult with Xeos as to the procedures and use of restrictive markings required to protect the ownership interest of Xeos and receive written confirmation from Xeos of same.
- (j) This license and sale are subject to the laws and regulations, and other administrative acts, now or hereinafter in effect, of Canada and other governments and their departments and agencies relative to the exportation and/or re-exportation of licensed software and documentation. Buyer acknowledges that it will be responsible for compliance as necessary with such laws, regulations, and administrative acts.
- (k) Xeos agrees to use reasonable efforts to secure any licenses or permits as may now or hereafter be required by the Canadian Government in connection with the performance of Xeos obligations under an Order, but this will not be deemed to require any performance on the part of Xeos which cannot lawfully be done pursuant to the laws, regulations and acts referred to above.

SECTION 7. CONFIDENTIALITY

- 7.1. For all purposes of these Xeos T&Cs, “**Confidential Information**” shall mean all non-public, confidential, or proprietary information of either Party, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, and rebates, disclosed by either Party to the other Party, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential," in connection with these Xeos T&Cs. Confidential Information will not include (a) information which becomes public information through no act of the recipient, (b) information which the recipient had in its possession prior to receiving it from the disclosing Party, provided such information was learned without restrictions, (c) information which the recipient develops without reference to the Confidential Information, and (d) information which the recipient receives from a third party who learned such information without restrictions.
- 7.2. Confidential Information shall only be used by each Party in performing such Party’s obligations under these Xeos T&Cs. Confidential Information may be disclosed only to employees or contractors of the recipient Party with a “need to know” who are bound by confidentiality obligations substantially like those in these Xeos T&Cs. Neither Party will disclose any Confidential Information to any third party without the other Party's written consent, except as otherwise provided herein. If a receiving Party is ordered by a court or government agency to disclose a disclosing Party's Confidential Information, it shall before such disclosure immediately notify the disclosing Party in writing and assist the disclosing Party as necessary to protect such Confidential Information from disclosure to the extent possible. Any disclosure compelled by law shall be only to the extent minimally necessary and the information so disclosed shall remain Confidential Information.
- 7.3. Buyer expressly agrees that it will not use Xeos’s data for the manufacture or procurement of Products which are the subject of an Order or any similar products, or cause said products to be manufactured by or procured from any other source or reproduce said data and information or otherwise appropriate them without the written authorization of the Xeos. Buyer agrees that it will not disclose or make available to any third party any of Xeos’s data or other information pertaining to the Order, which is proprietary to Xeos, without obtaining Xeos’s prior written consent.
- 7.4. Upon termination or expiration of an Order, each receiving Party shall deliver to each disclosing Party all originals and copies of any material in any form of Confidential Information in its possession or shall destroy the same and certify the same to the disclosing Party. Delivery of Confidential Information shall occur no later than close of business on the tenth (10th) business day after written request by any disclosing Party.
- 7.5. The Parties acknowledge that money damages will not be an adequate remedy if this Section is breached; either Party may, in addition to any other legal or

equitable remedies, seek an injunction or other equitable relief against such breach without the necessity of posting any bond or surety.

SECTION 8. WARRANTY

- 8.1. As used in these Xeos T&Cs, “**Nonconformance**” means a failure to comply with or failure to operate due to noncompliance with applicable Product Specifications or having defects in workmanship or material. Normal wear and tear and the need for regular overhaul and periodic maintenance shall not constitute a Nonconformance.
- 8.2. Xeos warrants that at time of delivery to Buyer, its Products will comply with applicable Product Specifications and will be free from defects in workmanship and material. This warranty shall benefit the Buyer, its successors, and assigns. This warranty is valid for twelve (12) months after Xeos’s shipment of the Product. The warranty period for Xeos’s repair or replacement of a failed Product only, covered by the warranty, shall be the unexpired portion of the original warranty or six (6) months after shipment of the repaired or replaced Product, whichever is longer.
- 8.3. Buyer must notify Xeos in writing of the Nonconformance of any Product within the warranty period and return the Product to Xeos within thirty (30) days after such discovery. Prior to return of the Product to Xeos, Buyer must obtain a Return Material Authorization (RMA) from Xeos. Xeos reserves the right to return to Buyer any Product received without a valid RMA. In the event Xeos is unable to confirm Buyer’s reported Nonconformance, Buyer agrees to pay Xeos an Evaluation/No Defects Found Charge, the amount of which shall be as specified in Xeos’s Return Material Authorization. Xeos’s obligation and Buyer’s remedy under this warranty is limited to either repair or replacement, at Xeos’s election, of any Product Nonconformance. Xeos agrees to assume round trip transportation costs for a nonconforming Product in an amount not to exceed normal shipping charges to the nearest facility designated herein for warranty repair of products delivered under an Order and to the extent that the shipment refers to shipment within the Canadian territory. The risk of loss or damage to all Products in transit shall be borne by the party initiating the transportation of such Products.
- 8.4. Xeos shall not be liable under this warranty if the Product has been exposed or subjected to:
 - i. Any maintenance, repair, installation, handling, transportation, storage, operation or use which is improper or otherwise not in compliance with Xeos’s instruction; or
 - ii. Any alteration, modification, or repair by anyone other than Xeos or those specifically authorized by Xeos; or
 - iii. Any accident, contamination, foreign object damage, abuse, neglect, or negligence after delivery to Buyer; or
 - iv. Any damage precipitated by failure of a Xeos supplied Product not under warranty or by any product not supplied by Xeos.

- 8.5. This warranty is exclusive and in lieu of all other warranties, whether written or oral, express, implied, or statutory, including, but not limited to, any implied warranties of merchantability or fitness for particular purpose which are hereby expressly disclaimed. In no event shall Xeos be liable for incidental, consequential, punitive, or special damages of any kind. No extension of this warranty shall be binding upon Xeos unless set forth in writing and signed by Xeos's authorized representative.

SECTION 9. EXCUSABLE DELAY

- 9.1. Xeos shall be excused from delays in delivery and performance of other contractual obligations under an Order caused by acts or omissions that are beyond the reasonable control and without the fault or negligence of Xeos, including but not limited to Government embargoes, blockades, seizure or freeze of assets, delays or refusals to grant an export license or the suspension or revocation thereof, or any other acts of any Government, fires, floods, severe weather conditions, or any other acts of God, quarantines, labor strikes or lockouts, riots, strife, insurrection, civil disobedience, war, material shortages or delays in deliveries to Xeos by third parties.

SECTION 10. LIMITATION OF LIABILITY

- 10.1. Xeos's liability on any claim for loss or damage arising out of, connected with, or resulting from an order, or from the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair, or use of any product covered by or furnished under an order shall in no case exceed the price allocable to the product or part thereof which gives rise to the claim. In no event shall Xeos be liable for special, incidental, or consequential damages. Except as herein expressly provided to the contrary, the provisions of the order are for the benefit of the parties to the order and not for the benefit of any other person.
- 10.2. Except for breaches of Confidentiality or a Parties' indemnity set forth herein, neither Party shall be liable for any indirect, incidental, punitive, special, or consequential damages, or damages for loss of profits, revenue, data, or use, incurred by the other or any third party, in contract, tort (including negligence), or otherwise, even if advised of the possibility of such damages.

SECTION 11. INDEMNIFICATION

- 11.1. Buyer shall indemnify, defend, and hold harmless Xeos and its officers, directors, employees, and agents from and against any and all suits, actions, claims, losses, judgments, damages, liabilities, settlements, costs, and expenses (including, without limitation, reasonable attorneys' fees and costs) arising from or related to any third party claim, suit, or proceeding brought against Xeos as a result of (a) Buyer's use, provision, or distribution of the Products; (b) any representation or warranty by Buyer to any third party not authorized by Xeos or otherwise not compliant with Xeos's own warranty for the Products or any of them; (c) any Buyer failure to comply with any law or regulation applicable to Buyer's obligations or activities under these Xeos T&Cs; or (e) Buyer's breach of these Xeos T&Cs.

- 11.2. A Party seeking indemnification under this Section shall promptly notify the other in writing of the indemnified claim and give the other control of the disposition thereof; provided, however, that failure to give timely notice shall not relieve the indemnifying Party of its obligations under this Section except to the extent that untimely notice materially impairs its ability to defend. The indemnified Party shall have the right, but not the obligation, to participate at its expense in any such suit through counsel of its choosing. Neither Party shall, without the other's prior written consent, settle any proceeding to which the other is a Party and indemnification is sought under these Xeos T&Cs unless such settlement either (a) unconditionally releases the other Party from all liability on all claims in the proceeding; or (b) is consented to by the other Party (consent not unreasonably withheld). If an indemnifying Party fails after notice to adequately and timely defend or settle such a matter, the indemnified Party shall have the right, but not the obligation, to defend or settle the matter and the indemnifying Party shall indemnify the other Party for all damages, settlements, expenses, and costs, including reasonable attorneys' fees, arising therefrom.

SECTION 12. CANCELLATION

- 12.1. The Parties shall have the right to cancel any portion of an Order affected by a default of the other Party or any insolvency or suspension of the other Party's operations or any petition filed or proceeding commenced by or against the other Party under any provincial, state, or federal law relating to bankruptcy, arrangement, reorganization, receivership, or assignment for the benefit of creditors.

SECTION 13. INDEPENDENCE OF THE PARTIES

- 13.1. The contractual relationship between the Parties governed by these Xeos T&Cs and developed by the Order is of a commercial nature. Accordingly, both Parties shall act as entities with independent legal personality, avoiding identification or confusion with the organisation and assets of the other.

SECTION 14. GOVERNING LAW & VENUE

- 14.1. These Xeos T&Cs and all matters arising out of or relating to these Xeos T&Cs are governed by, and construed in accordance with, the laws of Nova Scotia and Canada, exclusive of any choice of law provisions. Xeos and Buyer expressly agree to exclude from these Xeos T&Cs the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto.
- 14.2. The Parties shall make all reasonable efforts to resolve, through good faith negotiations, any controversy, difference or claim that may arise within the framework of the contractual relationship between the Parties. If the Parties are unable to resolve the controversy, difference or claim within a period of sixty (60) days from the date on which the same was submitted by one Party to the other, the Parties shall submit, with express waiver of the forum that may correspond to them, to the courts and tribunals of the city of Nova Scotia (Canada). Therefore, any legal suit, action, or proceeding arising out of or relating to these Xeos T&Cs must be instituted in the Nova Scotia competent jurisdiction, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

SECTION 15. ASSIGNMENT

15.1. Neither Xeos or the Buyer shall assign an Order or any portion thereof without the advance written consent of the other, which consent shall not be unreasonably withheld. The non- assigning party shall not have any obligation to an assignee of the assigning party unless such consent is obtained.

SECTION 16. WAIVER

16.1. A failure or delay in exercising any right hereunder shall not be considered a waiver thereof unless expressly waived in writing and signed by the waiving Party. No single waiver will be considered a continuing or subsequent waiver.

SECTION 17. SEVERABILITY

17.1. If a court of competent jurisdiction finds any provision of these Xeos T&Cs unenforceable, all other provisions will remain in full force and effect and the unenforceable provision will be replaced with an enforceable provision that most nearly achieves the intent and economic effect of the unenforceable provision.

SECTION 18. FINAL PROVISIONS

18.1. If any term of these Xeos T&Cs is declared invalid, illegal, unenforceable, or void by a final and unappealable decision of the relevant jurisdiction, the Parties shall not be bound by it, but only to the extent that the specific term is invalid, illegal, unenforceable, or void. If the rest of the Xeos T&Cs can be executed without substantial alteration, then the terms not affected by such a decision shall continue to apply to the extent legally permissible.

18.2. Names of the sections and paragraphs of these Xeos T&Cs are for reference only and shall not affect their meaning or interpretation.

SECTION 19. SURVIVAL

19.1. In the event of complete performance of any Order, the following provisions shall be deemed to survive such termination: Sections 3, 5, 7-11, and 14-19 and any payment obligations accruing or accrued hereunder. Expiration or termination shall not relieve the Parties of any obligation accruing prior to such expiration or termination.