



## TERMS AND CONDITIONS

Lighthouse Worldwide Solutions Inc. ("LWS") offers to sell and accepts purchase of products ("the Products") by Buyer where Buyer agrees that the sale and purchase of products are made under these Terms and Conditions. Buyer agrees to these Terms and Conditions of Sale in their entirety except in those areas acknowledged in writing by LWS. LWS's failure to note, challenge or object to any term, condition, or provision by Buyer will not be construed as an acceptance or modification of such provision unless specifically agreed to in writing.

### **All Product purchases are subject to the following terms and conditions:**

**1. ORDERS:** All orders are subject to acceptance by LWS. LWS's booking of an order into its order entry system will constitute its acceptance of an order. All orders will be considered binding upon entry into the LWS order entry system.

**2. TERMS OF PAYMENT:** Payment terms for the purchase of the Products are net thirty (30) days from date of LWS' invoice. All sums not paid when due will accrue interest daily at the lesser of a monthly rate of one and one half percent (1.5%) or the highest rate permissible by law on the unpaid balance until paid in full.

**3. SHIPPING AND DELIVERY:** All deliveries in the United States will be F.O.B. factory. All International deliveries will be Ex-works factory. LWS will select a carrier for shipment unless instructed otherwise in writing by Customer and Customer assumes responsibility for payment of the shipper. LWS will not assume any liability in connection with shipment nor will the shipper/carrier be construed to be an agent of LWS. Title and risk of all loss will pass to Customer upon delivery by LWS to carrier. Customer must provide its own insurance for all shipments. Shipments may be shipped in several lots unless instructed by Customer to ship complete. LWS will deliver the Products to a carrier at LWS's factory and, if the Products are sold to a Customer outside the United States, will clear the Products for export destined outside the United States. Customer will pay all freight charges, applicable import duties, and other necessary fees and will bear the risks of carrying out customs formalities and clearance. Orders are entered as close as possible to Customer's requested shipment date, if any. Shipment dates are scheduled after acceptance of orders and receipt of necessary documents. All shipments are deemed accepted unless, within ten (10) days of receipt, Customer supplies, in writing, a claim for specific damages. Claims for shipment shortage will be deemed waived unless presented to LWS, in writing, within ten (10) days of receipt. All other claims for loss, damage, or misdelivery must be filed with carrier. All Products shall be deemed accepted by Customer upon receipt subject to LWS' Return Policy as identified in Section 9.

**4. TAXES AND OTHER CHARGES:** Product prices are exclusive of, and Customer will pay, applicable sales, use, service, transfer, excise, value added or like taxes, unless Customer has

provided LWS with an appropriate exemption certificate for the delivery destination acceptable to the applicable taxing authorities.

**5. GRANT OF LICENSE:** Subject to Customer's compliance with the terms of this Agreement and payment in full of all sums due and owing to LWS for the Product, Lighthouse grants to Customer the following Licenses: (a) a limited, personal, nonexclusive, non-transferable license to use the Software in object code format solely in connection with the Products. Customer may make one archival copy of the Software solely for backup purposes provided Customer retains all copyright and other notices from the original Software on that copy. While Customer may own the Product, the Customer does not own the Software itself or any bug fixes, error corrections, updates or upgrades to the Software, and LWS and its suppliers retain all rights to that Software except those expressly licensed to Customer in this Agreement. The Licenses will terminate immediately without notice if Customer fails to comply with any provision of the licenses, the restrictions set forth in paragraph 6 below (the "Restrictions"), or any other provision of this Agreement, and upon termination of the licenses, Customer will destroy the original and all copies of the Software.

**6. RESTRICTIONS:** Except as expressly authorized in paragraph 5 above or in paragraph 7 below, Customer will not: (a) copy the Software; (b) modify, translate or create derivative works of the Software; (c) reverse engineer, decompile, disassemble or attempt to derive the source code or underlying ideas or algorithms included in the Software except to the minimum extent necessary to comply with applicable nonwaivable law; (d) rent, lease, distribute, sell, assign, sublicense, transfer, encumber or otherwise make available the Software to others; (e) export the Product except in compliance with applicable law, including safety and standard setting laws and regulations in the country where the Product will be used and all export and import laws and regulations; (f) provide, disclose or make the Software available to anyone other than to Customer's employees, contractors and agents who have a need to know and who are under an obligation of confidentiality; (g) change any proprietary rights notices on the Software; (h) permit any other person to take any of the actions described in subparagraphs (a) through (g) above.

**7. THIRD PARTY SOFTWARE:** The Software includes not only computer programs developed by LWS, but it also includes proprietary computer programs developed by third parties ("Third Parties"). The Third Parties are intended beneficiaries of this Agreement and may enforce the terms of this Agreement to the extent it relates to those Third Parties' Software (the "Third Party Software"). The Third Parties have provided the Third Party Software AS IS, without representation or warranty of any kind, and each of the Third Parties expressly disclaims the implied warranties of title, merchantability, fitness for a particular purpose or use and noninfringement. In no event will the Third Parties be liable for any lost revenues, profits, goodwill or use, the cost of substituted products or services, business interruption or any damage to or loss of any software programs, data or removable data storage media, for the restoration or reinstallation of any software programs or data, or for any direct, indirect, consequential, special, incidental or punitive damages of any kind however caused, whether arising under contract, tort (including strict liability and negligence), equity or any other theory of liability, even if those Third Parties have been advised of the possibility of those damages or even if those damages are foreseeable. To the extent a Third Party license conflicts with the terms of the Licenses or the Restrictions, the terms of that Third Party license will control but only with respect to the portion of the Software that is subject to that Third Party license,

and nothing in this Agreement or the Restrictions will be deemed to replace or amend any Third Party license.

**8. RESCHEDULING, DELAYS, AND CANCELLATION:** Orders accepted by LWS may be cancelled, delayed, or rescheduled by Customer only with the written consent of LWS and upon payment of LWS's cancellation or rescheduling charges. Normal cancellation or rescheduling charges will not exceed twenty five (25%) percent of the purchase price unless Products were modified, special, or not included in LWS's normal products published in its brochures, advertising or price lists. LWS will have the right to cancel any and all orders of Customer in the event that Customer is late with payments, credit becomes impaired, or if Customer violates any of these Terms and Conditions.

**9. RETURN/CHANGE POLICY:** A "Return Material Authorization" number must be obtained from LWS for return of any Product. Customer may only return any unused and unopened Products within thirty (30) days of the date of delivery ("Delivery Date") and Customer agrees to pay a ten (10%) percent restocking charge. In the event Customer returns Product between thirty one (31) and ninety (90) days after the Delivery Date, Customer will pay a twenty (20%) percent restocking charge on any returned Products. Labor charges are not refundable. Customer may not return any Product more than ninety (90) days after the Delivery Date. Where special Product or services are involved, Customer will be responsible for all related work in progress; however, LWS will take responsible steps to mitigate damages immediately upon receipt of a written cancellation notice from Customer. LWS may terminate any order if any representations made by Customer to LWS are false or misleading. Changes to orders will not be binding upon nor be put into effect by LWS unless confirmed in writing by LWS's appropriate representative. Customer is responsible for all shipping costs after warranty period.

**10. WARRANTIES AND LIMITATIONS:**

**A.** LWS warrants that all Product will be free from defects in material and workmanship under normal use for a period of two years from date of shipment to Customer except that LWS does not warrant that operation of any Software will be completely uninterrupted or error free or that all program errors will be corrected. Customer will be responsible for determining that the Product is suitable for Customer's use and that such use complies with any applicable local, state, or federal law. Provided that Customer notifies LWS in writing of any claimed defect in the Product immediately upon discovery and any such Product is returned to the original shipping point, transportation charges prepaid, within two years from date of shipment to Customer and upon examination LWS determines to its satisfaction that such Product is defective in material or workmanship, i.e. contains a defect arising out of the manufacture of the Product and not a defect caused by other circumstances, including, but not limited to accident, misuse, unforeseeable use, neglect, alteration, improper installation, improper adjustment, improper repair, or improper testing, LWS will, at its option, repair or replace the Product, shipment to Customer prepaid. LWS will have reasonable time to make such repairs or to replace such Product. Any repair or replacement of Product will not extend the period of warranty. If the Product is modified or in any way altered without the explicit written consent of LWS then the warranty is null and void. Except for the specific Products noted below, this warranty is limited to a period of two years, without regard to whether any claimed defects were discoverable or latent on the date of shipment. The length of warranty for pumps in hand held particle counters is one (1) year from the date of shipment. Batteries and accessories with all Products are warranted for (1) year from the date of shipment.

Fuses and purge filters carry no warranty.

If a third party battery is used in the Product, the foregoing warranty is null and void. If the battery is charged by a third party battery charger the battery warranty is null and void.

**B.** If Customer fails to pay when due any portion of the purchase price or any other payment required from Customer to LWS, all warranties and remedies granted under this Section 10 may, at LWS's option, be terminated.

**C.** LWS warrants that all installation services shall be performed in a professional and workmanlike manner.

**D.** THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES AND COVENANTS, EXPRESS OR IMPLIED WITH RESPECT TO THE PRODUCTS AND ANY DEFECTS THEREIN OF ANY NATURE WHATEVER, INCLUDING AND WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LWS WILL NOT BE LIABLE FOR, AND CUSTOMER ASSUMES ALL RISK OF, ANY ADVICE OR FAILURE TO PROVIDE ADVICE BY LWS TO CUSTOMER REGARDING THE PRODUCTS OR CUSTOMER'S USE OF THE SAME. UNDER NO CIRCUMSTANCES WILL LWS BE LIABLE TO CUSTOMER UNDER ANY TORT, NEGLIGENCE, STRICT LIABILITY, OR PRODUCT LIABILITY CLAIM AND CUSTOMER AGREES TO WAIVE SUCH CLAIMS. LWS'S SOLE AND EXCLUSIVE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, FOR ANY NONCONFORMITY OR DEFECT IN THE PRODUCTS OR ANYTHING DONE IN CONNECTION WITH THE SALE OF PRODUCTS, IN TORT, (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE, WILL BE AS SET FORTH IN SUBSECTION 10A HEREOF AS LIMITED BY SUBSECTION 10B HEREOF. THIS EXCLUSIVE REMEDY WILL NOT HAVE FAILED OF ITS ESSENTIAL PURPOSE (AS THAT TERM IS USED IN THE UNIFORM COMMERCIAL CODE) PROVIDED THAT LWS REMAINS WILLING TO REPAIR OR REPLACE DEFECTIVE PRODUCT (AS DEFINED IN SUBSECTION 10A) WITHIN A COMMERCIALLY REASONABLE TIME AFTER RECEIVING SUCH PRODUCT. CUSTOMER SPECIFICALLY ACKNOWLEDGES THAT LWS'S PRICE FOR THE PRODUCT IS BASED UPON THE LIMITATIONS OF LWS'S LIABILITY AS SET FORTH HEREIN.

**11. WARRANTY OF REPAIRS AFTER INITIAL TWO (2) YEAR WARRANTY:** Upon expiration of the initial two-year warranty, all parts and repairs completed by an authorized LWS repair technician are subject to a six (6) month warranty. Other than the above, LWS makes no warranty of any kind, expressed or implied. Customer assumes all risk and liability resulting from use of the Products whether used singly or in combination with other Products.

WARRANTY REPAIRS WILL BE COMPLETED AT THE FACTORY, BY AN AUTHORIZED SERVICE LOCATION, BY AN AUTHORIZED SERVICE TECHNICIAN, OR ON SITE AT CUSTOMER'S FACILITY BY A LWS AUTHORIZED EMPLOYEE. CUSTOMER PAYS FREIGHT TO FACTORY; LWS WILL PAY STANDARD RETURN FREIGHT DURING THE WARRANTY PERIOD. CUSTOMER MAY SELECT A FASTER METHOD OF SHIPMENT AT ITS OWN EXPENSE.

**12. PATENTS:** LWS will defend any suit or proceeding brought against Customer to the extent that it is based on a claim that any Product manufactured by LWS infringes in construction or design a United States patent, and will indemnify Customer against all costs, damage and expenses finally awarded against Customer provided that Customer notifies LWS promptly in writing of any such claim and gives LWS full and complete authority, information and assistance for the defense of such claim and provided further that LWS will have sole control of the defense and the negotiations for settlement, if any, of such claim. If any such Product is held in construction or design directly to

infringe any United States patent and the use of said Product is enjoined, or in case any Product may, in the opinion of LWS, be held to infringe, LWS may, at its expense and option, either (a) procure for Customer the right to continue using said Product, (b) replace said Product with a suitable non-infringing Product, (c) suitably modify said Product or (d) refund the purchase price of said Product, less depreciation at twenty (20%) percent per year, and accept its return. LWS will not be liable for cost or expense incurred without LWS's written authorization. LWS will not be obligated to defend or be liable for costs and damages if the infringement arises out of compliance with Customers' specification or from a combination with or an addition to equipment not manufactured or developed by LWS or a modification of the Product after delivery or the use of Product beyond that established by LWS or approved in writing by LWS. THE FOREGOING STATES THE ENTIRE LIABILITY OF LWS, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ALLEGED PATENT INFRINGEMENT BY THE SAID PRODUCT.

**13. LIMITATION OF LIABILITY AND CUSTOMER INDEMNITY:** IN NO EVENT, REGARDLESS OF THE FORM OF ACTION, WILL LWS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGE ARISING OUT OF THE SALE OF ITS PRODUCTS TO CUSTOMER OR ARISING OUT OF ANYTHING DONE IN CONNECTION WITH THE PRODUCT, INCLUDING, BUT NOT LIMITED TO, LOSSES OR DAMAGE ARISING OUT OF CLAIMS FOR LOSS OF USE, BUSINESS, GOODWILL, OR PROFITS, AND CLAIMS ARISING OUT OF THIRD PARTY ACTIONS, REGARDLESS OF WHETHER SUCH THIRD PARTY, ACTIONS, OR ANY OTHER LOSSES, OR DAMAGES, WERE REASONABLY FORESEEABLE TO CUSTOMER OR LWS. CUSTOMER'S EXCLUSIVE REMEDY ARISING OUT OF ITS PURCHASE AND USE OF LWS'S PRODUCTS, OR ARISING OUT OF ANYTHING DONE IN CONNECTION WITH THE PRODUCT, WILL BE FOR DAMAGES AND NO CLAIM OR CLAIMS OF ANY KIND, WHETHER BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, WARRANTY AND STRICT LIABILITY), STATUTORY OR REGULATORY PROVISIONS, INDEMNITY, CONTRIBUTION, OR OTHERWISE, WILL BE GREATER IN AMOUNT IN AGGREGATE THAN THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT OF WHICH DAMAGES ARE CLAIMED. Customer will indemnify and hold harmless LWS, its officers, agents, employees, subsidiaries, parents, affiliates and insurers from and against any and all liabilities, damages, losses, claims, lawsuits, including costs and expenses in connection therewith, for death or injury to any persons or loss of any property whatsoever, caused in any manner by Customer's possession, use or operation of any Products.

**14. PRODUCT DISCLAIMER:** LWS PRODUCTS ARE NOT DESIGNED WITH COMPONENTS AND TESTING FOR A LEVEL OF RELIABILITY SUITABLE FOR USE IN OR IN CONNECTION WITH LIFE SAFETY OR LIFE SUPPORT SYSTEMS WHOSE FAILURE TO PERFORM CAN REASONABLY BE EXPECTED TO CAUSE SIGNIFICANT INJURY TO A HUMAN.

**15. MOLD, MOLD REMEDIATION:** LWS IS NOT RESPONSIBLE FOR ANY LIABILITY OR CONSEQUENTIAL DAMAGES IN REGARD TO MOLD OR MOLD REMEDIATION SERVICES. LWS PARTICLE COUNTERS COUNT PARTICLES AND ARE NOT DESIGNED TO DEFINE PARTICLE COMPOSITION.

**16. PROPRIETARY INFORMATION:** Customer represents that it has adopted reasonable procedures to protect Proprietary Information, as defined hereafter, including binding agreements with employees and consultants to prevent unauthorized publication, disclosure or use of such

during or after the term of their employment by or services for Customer. Customer will not use Proprietary Information except as required for the use of the Products, will not disclose Proprietary Information to any third party, and will not transmit any documents or copies thereof containing Proprietary Information to any third party, except as may be authorized in writing by LWS. This Section 16 will survive termination of any agreements between the parties.

“Proprietary Information” will mean information or data of LWS, or a third person to whom LWS owes obligations of confidentiality, and which is furnished or to be furnished to Customer in written, graphic or machine-readable form and is marked proprietary or confidential. Where copies or alternative forms of information or data are received from LWS, such information or data will be considered Proprietary Information if at least one of said copies or alternative forms is marked proprietary or confidential. This section 16 will not apply to information which Customer demonstrates was in Customer’s possession prior to receipt from LWS or information which Customer demonstrates is or has become available to the public or general knowledge in the industry otherwise than through the fault of Customer.

**17. APPLICABLE LAW AND ACTIONS TO RECOVER DAMAGES:** The validity, performance, and construction of the contract will be governed by the laws of the State of California. If any provision of these Terms and Conditions is held to be unenforceable, such holding will not affect the enforceability of any other provision. Any legal presumption that terms herein will be strictly construed against the party who drafted such terms or who benefits from such terms will not be employed, in construing or interpreting these Terms and Conditions. Prior to commencement of any legal proceedings, Customer and LWS will promptly meet at a senior level to attempt to resolve differences. Notwithstanding any attempts to resolve difference or negotiations regarding such difference, any action brought by Customer against LWS arising out of Customer’s purchase and use of the Products must be commenced within one year after such action accrues and in no event later than two years after date of shipment of such Products.

**18. FORCE MAJEURE:** LWS will be excused for any delay or failure to perform due to any cause beyond its reasonable control, including but not limited to acts of governments, natural catastrophes, acts of Customer, interruptions of transportation or inability to obtain necessary labor or materials. LWS’s estimated shipping schedule will be extended by a period of time equal to the time lost because of any excusable delay. In the event LWS is unable to perform in whole or in part because of any excusable failure to perform, LWS may cancel orders without liability to Customer.