

Dialogic Inc. and Subsidiaries (including Dialogic Corporation)

Terms and Conditions of Sale and Licensing

IMPORTANT — READ CAREFULLY: Unless there is a signed purchase agreement in effect between you and Dialogic Inc. or a Subsidiary (defined below) related to your purchase of the Products (as defined below) and/or Third Party Products (as defined below) you have ordered, these Terms and Conditions of Sale and Licensing (this "Agreement") apply to you and constitute a legal agreement between you (on behalf of yourself or the entity which you represent — hereinafter referred to as "Customer") and Dialogic Inc. or any Dialogic subsidiary (collectively "Dialogic") which sells the Products and/or Third Party Products to Customer. It applies to the sale or licensing of Products and/or Third Party Products. By ordering the Products and/or Third Party Products, Customer agrees to be bound by the terms of this Agreement. Dialogic's agreement to the sale or licensing of any Products and/or Third Party Products, is expressly conditioned upon Customer's assent to the terms and conditions contained herein. No waiver, alteration or modification of this Agreement shall be binding on Dialogic unless in writing and signed by a duly authorized officer of Dialogic. For any information related to this Agreement please contact Dialogic's legal department attention EVP Corporate Affairs and General Counsel at 9800 Cavendish Blvd., Suite 500, Montreal, Quebec H4M 2V9

Section 1: Definitions.

- (a) "Acknowledgement" shall mean Dialogic's written acknowledgement of Customer's order for Products and/or Third Party Products to be purchased from Dialogic.
- (b) "Agreement" shall have the meaning ascribed to it in the preamble.
- (c) "Customer" shall have the meaning ascribed to it in the preamble.
- (d) "Dialogic" shall mean Dialogic Inc. or the Subsidiary that sells or licenses the Product and/or Third Party Product concerned to Customer. Solely the company the purchase order is placed with and which delivers the Products and/or Third Party Products to Customer has obligations under this Agreement to the exclusion of all other companies in the Dialogic group.
- (e) "Equipment" shall mean any hardware or other equipment and parts thereof, but shall not include any Software whether or not such Software is part of Firmware.
- (f) "Firmware" shall mean a combination of (i) hardware and (ii) Software represented by a pattern of bits contained in such hardware.
- (g) "Open Source Software" means any Software which is freely available without charge; any Software that refers to, or is based upon, a any form of software license from or substantially similar to any software license provided by the Free Software Foundation, including without limitation GNU General Public License, the GNU Lesser General Public License or the GNU Free Documentation License; or any software that is "copylefted."

- (h) "Products" shall mean any Equipment or Software ordered by Customer from Dialogic other than Third Party Products.
- (i) "Resellers" shall mean Dialogic resellers, distributors and OEMs.
- (j) "RMA" shall have the meaning ascribed to it in Section 15(a).
- (k) "Software" shall mean the executable object code version (but not the source code version) of the computer software (including without limitation any media or printed, electronic or "online" materials and documentation associated therewith) provided by Dialogic (including any Firmware) and any updates thereto that Dialogic may provide hereunder from time to time.
- (l) "Subsidiary" means any company in which Dialogic Inc. owns 50% or more of the outstanding voting shares directly or indirectly.
- (m) "System" shall have the meaning ascribed to it in Section 9(a).
- (n) "Third Party Product" shall mean any product resold or licensed by Dialogic to Customer under this Agreement that is not originally developed or manufactured by Dialogic.
- (o) "Transfer" shall have the meaning ascribed to it in Section 9(c) (ii).
- (p) "VAT" shall have the meaning ascribed to it in Section 3.
- (q) "Warranty Period" shall have the meaning ascribed to it in Section 14(b).

Section 2: Product and/or Third Party Product Purchase and Software License. The Customer agrees to purchase and/or license (as applicable) and by its acceptance, Dialogic agrees to sell and/or license (as applicable), on the terms set forth below, the Products and/or Third Party Products requested by Customer in its purchase order and listed on any Acknowledgement sent by Dialogic to Customer following receipt of its purchase order.

Section 3: Prices. The prices for the Products and Third Party Products shall be as listed on Dialogic's Acknowledgement of Customer's order. . Dialogic reserves the right to change its prices for Products or Third Party Products from time to time. Any change in prices will become effective at the expiry of any valid quote given by Dialogic to Customer or upon Dialogic's written notice. All prices expressed and all payments made must be in U.S. dollars. The prices shown are Ex Works Dialogic's plant (INCOTERMS 2010). Prices are exclusive of all federal, state, local, municipal, value added tax ("VAT") or other excise, sales, use, occupation, or similar taxes now in force or enacted in the future, all of which shall be paid by Customer. It is the sole responsibility of Customer (in the importing country) to pay all related VAT charges, import fees, duties & taxes on Products and/or Third Party Products purchased or shipped to Customer. Dialogic may invoice Customer for any such taxes and remit any payments made on such invoice directly to the appropriate taxing authorities. It shall be Customer's responsibility to provide written proof, satisfactory to Dialogic, of any applicable tax exemptions.

Section 4: Payment. Unless otherwise agreed to in writing by Dialogic, payment for Products and/or Third Party Products is due by wire transfer in advance of shipment or all balances shall be paid by an irrevocable International Letter of Credit upon presentation by Dialogic to the issuing bank or accepting bank of bills of lading or other mutually acceptable shipping documentation. Customer may apply for open account receivable credit and, if such credit is approved by Dialogic, payment terms shall

be thirty (30) days from the date of invoice. Any payments not made by the due date shall thenceforth carry interest at 2% above the HSBC bank's base rate from time to time, compounded on the last day of each calendar month. If credit is not approved or is revoked, Customer agrees to accept delivery and pay cash prior to shipment. Notwithstanding the above, Dialogic reserves title in the Products and/or Third Products until payment is received in full. Dialogic reserves the right to suspend further deliveries pending full payment of all sums and interest that are overdue. Payment shall be deemed to have been received once cleared funds are credited by Dialogic's bankers to its accounts.

Section 5: Delivery. If Dialogic accepts Customer's purchase order it shall send an Acknowledgment setting out an estimated delivery date. Dialogic intends to meet acknowledged delivery dates, but does not represent or warrant that it will, in fact, meet all such dates, as all shipments are made subject to the availability of Products and/or Third Party Products. Dialogic agrees that it shall notify Customer as soon as practicable of any delay in expected delivery schedules.

Section 6: Shipment, Risk of Loss and Title. All Products and/or Third Party Products shall be packaged, marked and otherwise prepared for shipment by Dialogic in suitable containers in accordance with sound commercial practices. Dialogic shall mark on such containers all necessary handling, loading and shipping instructions. An itemized packing list shall be included with each shipment. Customer agrees to assume any additional packaging costs incurred by Dialogic in complying with Customers packaging specifications. All Products and/or Third Party Products under this Agreement shall be delivered to Customer Ex Works Dialogic's dock (INCOTERMS 2010) and delivery of Products and/or Third Party Products to a common carrier or a licensed trucker shall constitute delivery to Customer. Title and risk of loss for the Product and/or Third Party Products shall pass to Customer upon delivery to a common carrier or licensed trucker. All Products and/or Third Party Products shall be shipped freight prepaid and charges will be added to Customer's invoice for such Products and/or Third Party Products. Dialogic will not assume any liability in connection with shipment for any loss or damage caused by delay in shipping the Products and/or Third Party Products nor constitute any carrier as its agent. Upon request, shipments will be insured at Customer's expense, and Customer shall be responsible for making claims with carriers, insurers, warehousemen, and others for mis-delivery, non-delivery, loss, damage or delay. The Customer shall pay all transportation, rigging, duties, and import/export fees, taxes and similar costs and charges. Dialogic may, however, invoice Customer for any such charges and remit payments directly to the shipper.

Section 7: Export Controls. Customer warrants to Dialogic that none of the Products and/or Third Party Products obtained from Dialogic under this Agreement will be resold, transferred, or used in any way in violation of any applicable laws, regulations, transaction or export controls, or economic sanctions including those imposed by the U.S. government with regard to any other state, government or political entity. In the event that Customer should need any additional information from Dialogic in order to re-export product, Customer shall notify Dialogic's Export Manager in writing, and Dialogic agrees to furnish said information upon satisfactory proof of a legitimate need. Customer agrees that it shall protect all such information and hold such information so provided in accordance with the provisions of the section entitled "Proprietary Information" hereunder.

Section 8: Proprietary Controls. Customer acknowledges that it may receive certain proprietary information from Dialogic from time to time. In the event Customer and Dialogic shall have entered into a separate confidentiality and non-disclosure agreement, the terms of such agreement shall apply to the extent the terms of such agreement conflict with the provisions of this Section 8.

- (a) *Proprietary Information.* Dialogic and Customer agree that, in addition to the Software, certain information supplied by each to the other during the course of this Agreement

may be proprietary. All such information shall be marked as proprietary, shall be held in confidence by the receiving party using at least a reasonable standard of care for a period of five (5) years following the date of disclosure and shall be used only for the purpose of this Agreement save and except for trade secrets which shall be protected for so long as such trade secret is protected under applicable law.

- (b) *Documentation.* All documentation with respect to the Products, including operating or maintenance manuals and drawings, are solely for Customer's internal use. The Customer may make copies of such documentation only to satisfy its internal requirements, provided that all such copies include copyright and proprietary information notices. No other copies or use of such documentation, or any portion thereof, shall be made without the prior written consent of Dialogic. All such documentation, and copies thereof, shall be maintained in secure premises by Customer, and Customer shall take appropriate measures to prevent the unauthorized disclosure thereof.
- (c) *Return of Information.* Upon the termination or cancellation of this Agreement, each party shall promptly cease using and shall return or destroy and certify destruction of:
 - (i) All Proprietary Information which it receives from the other party along with all tangible copies which it may have made; and
 - (ii) All copies stored in any computer memory or storage medium.

Section 9: Software Licenses. All Software provided by Dialogic to Customer shall be by way of a license. In the event that Dialogic shall provide any such Software to Customer pursuant to a separate license agreement (including without limitation any "click-through", "shrink-wrap", or other valid license agreement), the terms of such license agreement shall be cumulative with the provisions of this Section 9; provided, however, the provisions of such license agreement shall apply to such Software to the extent the terms of such license agreement conflict with the provisions of this Section 9.

- (a) *License Grant to End-Users.* Subject to the terms of this Agreement, Customer may install, access and use one copy of the Software on a single computer, workstation, terminal or other digital electronic device ("System") or Customer may install a copy of the Software on a device, such as a network server, used only to run, display or otherwise provide access to the Software to other Systems over an internal network; *provided, however,* Customer must acquire and dedicate an additional license for each separate System for which such access is provided. No license for the Software may be shared or used concurrently on different Systems.
- (b) *License Grant to Resellers.* Subject to the terms of this Agreement, Resellers shall have the right to sell or license Products or Third Party Products to end-users subject to these terms and conditions of sale and licensing.
- (c) *Other Rights and Limitations.*
 - (i) *Reverse Engineering.* Customer may not reverse engineer, decompile, or disassemble the Software, except and only to the extent that Dialogic is required to permit such activity by applicable law.
 - (ii) *Product Transfers.* Except as may be provided in this Section 9, Customer shall not sublicense, assign, transfer, sell or otherwise convey (a "Transfer") its rights

under this Section 9 to any other party. In the event that Customer shall Transfer, directly or indirectly, any Equipment which requires the use of Software for its operation to any third party, Customer shall immediately notify Dialogic in writing of such Transfer. In the event that any third party shall operate such Equipment without obtaining a valid Software license from Dialogic (or a Dialogic authorized distributor or reseller), Customer shall pay to Dialogic upon the occurrence of each such event, as liquidated damages and not as a penalty, an amount equal to Dialogic's then-current list price for a license to use such Software. The payment of liquidated damages by Customer pursuant to this paragraph shall not relieve any such third party from its obligation to obtain a valid license to use such Software.

- (iii) *Separability.* The Software is licensed as a single product and may not be separated for use on more than one System.
 - (iv) *Reservation of Rights.* All rights not expressly granted hereunder are reserved by Dialogic.
 - (v) *Termination.* In the event that Customer fails to comply with the terms and conditions of this Section 9, Dialogic may terminate the license granted to Customer hereunder without prejudice to any other rights of Dialogic. Upon such termination, Customer must return or destroy all copies of the Software and its component parts.
- (d) *Intellectual Property.* All title and copyrights in and to the Software and any copies of the Software are owned by Dialogic or its suppliers and licensors. All title and intellectual property rights in and to the content which may be accessed through use of the Software are the property of the respective owner of such content and may be protected by applicable copyright or other intellectual property laws and treaties. No ownership of or any right to use any part of such content is transferred to Customer under this Agreement. If the Software contains documentation provided only in electronic form, Customer may print one copy of such documentation for Customer's own use.
- (e) *Backup Copy.* Customer may make one copy of the original media on which the Software was provided to you by Dialogic solely for backup or archival purposes. Except as expressly provided in this Agreement, Customer may not otherwise make copies of the Software.

- (f) *Open Source Software.* Certain Products may be distributed to Customer with, as separate works, Open Source Software which shall be subject to the terms and conditions of the applicable third party open source license terms.
- (g) *GNU License Terms.* Certain Products may be distributed to Customer with, as separate works, Open Source Software which is subject to the terms and conditions of the GNU General Public License (“GPL”) found at www.gnu.org/licenses/gpl.txt. Because Dialogic distributes such Open Source Software in object code form, Dialogic will provide Customer with the complete corresponding machine-readable source code, upon written request for a period of up to three (3) years after delivery of the Products to Customer.
- (h) *License Fees.* In the event that Dialogic agrees in writing to an arrangement where Customer would use or distribute Software licenses and report back to Dialogic and pay license fees in arrears, all licenses used or distributed and license fees owed shall be reported to Dialogic by Customer within fifteen (15) days following the end of each calendar quarter. Dialogic will then send a corresponding invoice to Customer and such invoice shall be payable within thirty (30) days following the end of each calendar quarter. All license fees paid are non-refundable.
- (i) Audit. During the term of the Agreement and for three (3) years thereafter, Customer agrees to maintain complete and accurate records relating to its compliance with this Agreement, including with respect to its use and distribution of the Software and any license fees owed. Dialogic shall have the right, during normal business hours upon a mutually agreed upon date and no more often than annually, to audit only those books and records of Customer relating to its compliance with this Agreement. Any amounts shown by the audit to be due to Dialogic shall be paid to Dialogic within forty-five (45) days following the date of final written determination and written notice to Customer thereof and the receipt of a respective invoice for the amounts due to Dialogic. The costs of the audit shall be borne by Dialogic unless the amount owed exceeds \$10,000 USD in which case Customer shall reimburse the costs of the audit to Dialogic.
- (j) Software Subscription License Terms. In the event that Dialogic agrees to license Software to Customer on a fixed term / subscription basis, the following terms shall apply:
 - (i) The Software subscription shall commence on the start date specified in the relevant invoice and shall continue for a period of one (1) year. Software subscriptions shall automatically renew for additional periods of one (1) year unless Customer provides Dialogic with written notice of non-renewal at least thirty (30) days prior to the end of the relevant subscription term.
 - (ii) Fees for the Software subscription will be invoiced in advance on an annual or quarterly basis, as determined by Dialogic. Such fees are due net thirty (30) days from the invoice date (subject to credit approval). Customer is responsible for maintaining complete and accurate billing and contact information related to the Software subscription. Payment must be received by Dialogic by the due date to ensure continuity of access to the Software.

(iii) If Customer's account is overdue 30 days or more, in addition to any of its other rights or remedies, Dialogic reserves the right to suspend the Software subscription, without liability to Customer, until such amounts are paid in full.

Section 10: Program Updates and Changes In Product Specifications. Except as otherwise provided herein, Dialogic shall not be obligated to issue to Customer updates, improvements or software revisions. Dialogic may, in its sole and absolute discretion, issue notice of such updates for informational purposes and may make any and all changes to the specifications for the Products whether such notice is or is not provided.

Section 11: Notices. All notices required under this Agreement shall be in writing and personally delivered or sent by a recognized overnight carrier or by registered mail, return receipt requested:

If to Customer: At its address set forth in the Acknowledgement.
If to Dialogic: 9800 Cavendish Blvd., Suite 500
Montreal, Quebec, Canada
H4M 2V9
Attn: EVP Corporate Affairs
and General Counsel

The date of personal delivery or the date of mailing, as the case may be, shall be deemed to be the date on which such notice is given.

Section 12: International Approval or Certification. Customer shall contact Dialogic with any specific questions regarding certifications or approvals. Unless otherwise agreed, Dialogic reserves to itself the right to refuse to seek certifications for any of *its* products.

Section 13: U.S. Government Restricted Rights. The Products and/or Third Party Products being provided by Dialogic to Customer under this Agreement are so provided with restricted rights. If Customer is the U.S. government, it acknowledges that the use, duplication, or disclosure by the U.S. government of such products is subject to restrictions as set forth in subparagraph (c) (1) (11) of the Rights in Technical Data and Computer Software clause at 252.227-7013.

Section 14: Warranty; Limitation of Liability.

(a) Dialogic warrants that during the Warranty Period (as defined below), the Products will operate in substantial conformance with Dialogic's standard published documentation accompanying the product. If a Product does not operate in accordance therewith during the Warranty Period, Customer must promptly notify Dialogic. Dialogic, at its option, will either repair or replace the Product without charge.

(b) *Warranty Period for Products.* The period for which the warranty shall apply (the "Warranty Period") with respect to Products shall commence on the date of shipment of Products by Dialogic and run for the length of time published on Dialogic's website or included in the Product documentation for the applicable Product at the date the Product was purchased.

To report warranty claims, Customer may contact Dialogic via email at support@dialogic.com or call (508) 862-3366.

- (c) *Warranty Provisions for Products:*
- (i) No Product will be accepted for repair or replacement without the written authorization of and in accordance with instructions from Dialogic. Removal and reinstallation expenses as well as transportation expenses associated with returning such Product to Dialogic shall be borne by Customer. Dialogic shall pay the costs of transportation of the repaired or replaced Product to the destination designated in the original Acknowledgement. If Dialogic determines that any returned Product is not defective, Customer shall pay Dialogic 's costs of handling, inspecting, testing and transportation. In repairing or replacing any Product under this warranty, Dialogic may use new, remanufactured, reconditioned, refurbished or functionally equivalent Products. Replaced Products shall become Dialogic 's property.
- (ii) Dialogic makes no warranty with respect to defective conditions or non-conformities resulting from any of the following: Customer's modifications, misuse, neglect, accident or abuse; improper wiring, repairing, splicing, alteration, installation, storage or maintenance performed in a manner not in accordance with Dialogic's or its vendor's specifications, or operating instructions; failure of Customer to apply Dialogic's previously applicable modifications or corrections; or items not manufactured by Dialogic or purchased by Dialogic pursuant to its procurement specifications. Dialogic makes no warranty with respect to Products which have had their serial numbers removed or altered; with respect to expendable items, including, without limitation, fuses, light bulbs, motor brushes and the like; or with respect to defects related to Customer's database errors. Improper packaging of Product for repair will not be covered under this warranty agreement. No warranty is made that any Software will run uninterrupted or error free.
- (iii) Product Warranty does not include: (1) Dialogic's assistance in diagnostic efforts; (2) access to Dialogic's Technical Support web sites, databases or tools; (3) product integration testing; (4) on-site assistance; or (5) product documentation updates. These services are available either during or after warranty at Dialogic's published prices.
- (d) *Warranty Provisions for Third Party Products:* In the event Dialogic sells a Third Party Product to Customer it is sold on an "as is" basis with no warranty or indemnity of any kind provided by Dialogic. Dialogic will pass through to Customer any warranty or indemnity related to the Third Party Products that Dialogic receives from the manufacturer which it is allowed to pass through to Customer.
- (e) THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE GRANTED IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES (WHETHER WRITTEN, ORAL, STATUTORY OR OTHERWISE), INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND DIALOGIC'S SOLE OBLIGATION HEREUNDER, SHALL BE TO REPAIR, REPLACE, CREDIT OR REFUND AS SET FORTH ABOVE.
- (f) IN NO EVENT SHALL DIALOGIC, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES, BE LIABLE FOR ANY COSTS OR DAMAGES

ARISING DIRECTLY OR INDIRECTLY FROM YOUR USE OF ANY PRODUCT INCLUDING ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, MULTIPLE, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER LEGAL THEORY, EVEN IF DIALOGIC, OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE CUMULATIVE LIABILITY OF DIALOGIC, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES TO YOU FOR ANY AND ALL CLAIMS RELATING TO THE USE OF ANY PRODUCT SHALL NOT EXCEED THE TOTAL AMOUNT OF THE PURCHASE PRICE OR LICENSE FEES PAID TO DIALOGIC FOR SUCH PRODUCT.

- (g) IN NO EVENT SHALL DIALOGIC, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR AFFILIATES, BE LIABLE FOR ANY COSTS OR DAMAGES CAUSED BY REASON OF ANY OCCURRENCE OR CONTINGENCY BEYOND ITS REASONABLE CONTROL, INCLUDING BUT NOT LIMITED TO, ACTS OF GOD, EARTHQUAKE, LABOR DISPUTES AND STRIKES, RIOTS, WAR, NOVELTY OF PRODUCT MANUFACTURE AND GOVERNMENTAL REQUIREMENTS.
- (h) Dialogic reserves the right to amend the warranty terms contained in this Section 14 at any time in its sole and absolute discretion upon notice to Customer pursuant to Section 11 or by posting such amended warranty terms on its website at www.dialogic.com.

Section 15: Returns and Support.

- (a) *Returned Material Authorizations for Products.* Customers experiencing an equipment fault caused by defects in covered Products will be issued a Return Material Authorization (an "RMA") number. Covered Products are tracked by serial number. Customer is responsible for shipping any RMA Product, prepaid, to Dialogic's repair facility. Original packaging must be utilized to prevent damage. Repaired material shall be shipped by Dialogic, prepaid (U.S. and Canada only) to customer, FOB Dialogic. Dialogic's standard time to repair and ship RMA Products is thirty (30) days from receipt at Dialogic's repair facility. Upon receipt of said hardware, Dialogic shall inspect and test it. If Dialogic, in its reasonable judgment, determines that the hardware is defective, Dialogic shall, if possible, repair the hardware. At Dialogic's option, it may choose to replace the covered Product with an equivalent (new or refurbished) Product. If the Product is replaced, the returned Product material will become the property of Dialogic. All factory-repaired Products shall be tested before return to Customer. Repaired or replaced Products will be warranted for the remainder of the Warranty Period, or ninety (90) days, whichever is longer.
- (b) *Availability of Technical Support.* Technical Support may be obtained for an additional charge from Dialogic under a separate support plan agreement.

Section 16: General.

- (a) The obligations of Dialogic under this Agreement shall be subject to the procurement by, and at the expense of, Customer of any import or export licenses, documents, permits or clearances required with respect to this Agreement and are subject to the condition

precedent that all necessary approvals from governmental authorities (including exchange control authorities) have been obtained. The Customer agrees to comply with all applicable laws and shall not take or refrain from taking any action which would result in the violation of such laws by Dialogic. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership or employment relationship between Dialogic and Customer.

- (b) Customer's insolvency, adjudication or filing of a petition in bankruptcy under the bankruptcy laws or similar proceedings shall, at Dialogic's election, constitute default under this Agreement, entitling Dialogic to cancel without recourse to Customer.
- (c) This contract shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.
- (d) The validity, construction and interpretation of this Agreement and the rights and duties of the parties hereto shall be governed by the laws of the Province of Quebec, Canada without giving effect to any choice or conflict of law provision or rule (whether of the Province of Quebec or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Province of Quebec.
- (e) CUSTOMER SPECIFICALLY AND IRREVOCABLY CONSENTS TO THE PERSONAL AND SUBJECT MATTER JURISDICTION AND VENUE OF THE COURTS OF THE PROVINCE OF QUEBEC, CANADA AND SUCH COURTS SHALL HAVE EXCLUSIVE JURISDICTION WITH RESPECT TO ALL MATTERS CONCERNING THIS AGREEMENT OR THE ENFORCEMENT OF ANY OF THE FOREGOING.
- (f) CUSTOMER AND DIALOGIC HEREBY WAIVE THEIR RIGHT TO TRIAL BY JURY TO THE FULLEST EXTENT PERMITTED BY LAW IN CONNECTION WITH ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE PRODUCTS COVERED HEREBY OR THE PERFORMANCE OF ANY PARTY HEREUNDER. THIS AGREEMENT GIVES CUSTOMER SPECIFIC LEGAL RIGHTS. CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.
- (g) This Agreement and any applicable confidentiality agreement, the complete and exclusive statement of the Agreement between the parties and supersede all prior agreements and communications with respect to the subject matter. Dialogic makes no representations to Customer except as expressly set forth herein. The terms of this Agreement shall apply and govern the parties' dealings notwithstanding any proposed variations or additions which may be contained in any customer purchase order or other communications submitted by Customer.
- (h) This Agreement may not be modified, amended or waived in whole or in part, except by written agreement of the parties hereto. No Dialogic employee other than a duly authorized representative of Dialogic at its principal offices shall have any actual or apparent authority to modify the terms of this Agreement in any way. Any authorized modifications shall be in writing and signed by such an authorized representative of Dialogic. Any item or service furnished by Dialogic in furtherance of this Agreement, although not specifically identified herein, shall nevertheless be covered and governed by this Agreement unless specifically covered by some other written agreement executed by

Customer and an authorized representative of Dialogic.

- (i) Customer certifies that the Products and/or Third Party Products acquired hereunder are intended for Customer's own use in the ordinary course of business and not for the purpose of resale. Customer may not assign this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Dialogic.
- (j) Dialogic shall have a purchase money security interest in the Products and/or Third Party Products to secure Customer's payment obligations hereunder. Customer shall execute when appropriate and hereby authorizes Dialogic to file all documents required to maintain such security interest.
- (k) Customer shall reimburse Dialogic for attorneys' fees and other costs associated with Customer's breach of this Agreement, including without limitation the collection of any amounts due from Customer under this Agreement.
- (l) Section headings are for descriptive purposes only and shall not control or alter the meaning of this Agreement.
- (m) All rights and remedies of either party shall be cumulative and may be exercised singularly or concurrently. The failure of either party, in any one or more instances, to enforce any of the terms of this Agreement shall not be construed as a waiver of future enforcement of that or any other term.
- (n) If any provisions of this Agreement shall for any reason be held illegal or unenforceable, such provisions shall be deemed separable from the remaining provisions of this Agreement and shall in no way affect or impair the validity or enforceability of the remaining provisions from this agreement.
- (o) In the event either party is unable, in its reasonable judgment to perform in accordance with this Agreement, due in whole or in part to any cause beyond the party's control, including without limitation, acts of god, acts of the enemy, events of war, embargo, strike or lockout dispute with workers, accidental delay in transportation, shortage of fuel, excessive demand for products over available supply, inability to obtain material, unusually severe weather conditions, fires, floods, earthquakes, and unreasonably dangerous situations, the affected party shall promptly notify the other party in writing and the date of performance shall be extended for a period equal to the period of such delay.
- (p) The parties acknowledge that they have required that the present Agreement and all documentation, notices, arbitration and legal proceedings entered into, given or instituted pursuant hereto or relating directly or indirectly hereto be drawn up in English. Les parties reconnaissent avoir exigé que ce contrat ainsi que tout document, avis et procédures judiciaires qui pourront être exécutés, donnés ou intentés à la suite de, ou ayant un rapport direct ou indirect avec ce contrat, soient rédigés en anglais

Section 17: US Foreign Corrupt Practices Act and Analogous Legislation.

Customer and its subsidiaries, owners, partners, officers, directors, employees, agents, representatives, and subcontractors (collectively, "Customer Affiliates") are fully aware of the provisions of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. § 78 et seq.) ("FCPA") and any analogous applicable legislation enacted by other governments on corrupt practices ("Other Laws"). Customer and Customer Affiliates have not and will not commit, and have no information, reason to believe, or knowledge of anyone else having committed or intending to commit, any violation of the FCPA or Other Laws or any act or omission which could cause Dialogic to be in violation of the FCPA or Other Laws with respect to any activities related to this Agreement or the business of Dialogic. In carrying out their responsibilities under this Agreement, Customer and Customer Affiliates shall not pay, offer or promise to pay, or authorize any payment or offer of money or anything of value, directly or indirectly, to any foreign government official, a foreign political party or party official, or any candidate for foreign political office (in each case, a "Covered Person") for the purpose of influencing any act or decision of a Covered Person in his or her official capacity, inducing the Covered Person to do or omit to do any act in violation of his or her lawful duty, obtaining any improper advantage, or inducing a Covered Person to use his or her influence improperly to affect or influence any act or decision. For purposes of this Agreement, "government" includes any and all foreign governments, including any department, division, subdivision, court, arbitrator, regulatory, administrative, or other agency, corporation, unit, branch or authority or other instrumentality of a foreign government. A "foreign government official" includes employees or agents of a business which is owned or controlled by a government, and any person acting in an official capacity on behalf of a government entity. Neither Customer nor any Customer Affiliate is controlling, controlled by or is under common control with a Covered Person, or any of a Covered Person's agents, representatives or subcontractors is or will become a Covered Person during the term of this Agreement, unless such person obtains the prior written consent of Dialogic. Customer shall ensure that all of Customer Affiliates involved in Customer's performance of this Agreement are informed of, and comply with, Customer's obligations under and the restrictions contained in this Section. Customer must immediately notify Dialogic if it knows or has reason to believe that a violation of the FCPA or Other Laws or any of the representations, warranties, or covenants in this Section has occurred or will occur. If Dialogic has reason to believe that a breach of any of the representations, warranties or covenants in this Section has occurred or will occur, Dialogic may withhold further delivery of Products and other performance under the Agreement until such time as it has received confirmation to its satisfaction that no breach has or will occur. Customer shall maintain accurate books and records and shall maintain a system of internal accounting controls sufficient to provide reasonable assurances that such books and records are accurate. If Dialogic has reason to believe that a breach of any of the representations, warranties or covenants in this Section has occurred or will occur, Dialogic shall have the right to audit Customer (and Customer Affiliates) in order to satisfy itself that no breach has occurred or will occur. Promptly following a request by Dialogic, Customer shall execute and deliver, and cause all Customer Affiliates to execute and deliver, to Dialogic a standard certification regarding FCPA and Other Laws compliance in the form requested by Dialogic. In no event shall Dialogic be obligated under this Agreement to take any action or omit to take any action that Dialogic believes, in good faith, would cause it to be in violation of any U.S. laws,

including the FCPA, or the laws of any other jurisdiction including Other Laws, to which Dialogic or Customer is subject, including counter corruption laws. If Dialogic believes, at its sole and absolute discretion that a violation of any U.S. law including the FCPA, or the laws of any other jurisdiction including Other Laws to which Dialogic is subject, including counter corruption laws has occurred, Dialogic shall have the immediate right without any remedy to Customer to terminate this Agreement.