

## ELATEC INC. - GENERAL TERMS AND CONDITIONS

(Version November2020)

### 1. Applicability.

(a) These terms and conditions of sale (these “**Terms**”) are the only terms which govern the sale of the goods (“**Goods**” or “**Products**”) by ELATEC Inc., the seller named on the reverse side of these Terms (“**Seller**”), to Customer (“**Buyer**”). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The accompanying quotation, confirmation of sale, and/or invoice (the “**Sales Confirmation**” and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

### 2. Delivery.

(a) The Goods will be delivered within a reasonable time after the receipt of Buyer’s purchase order, subject to availability of finished Goods. Seller shall not be liable for any delays, loss or damage in transit and time shall not be of the essence.

(b) Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods to 1995 SW Martin Hwy, Palm City FL, 34990 (the “**Delivery Point**”) using Seller’s standard methods for packaging and shipping such Goods. Buyer shall take delivery of the Goods within five business days of Seller’s written notice that the Goods have been delivered to the Delivery Point. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point.

(c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer’s purchase order.

(d) If for any reason Buyer fails to accept delivery of any of the Goods on the date fixed pursuant to Seller’s notice that the Goods have been delivered at the Delivery Point, or if Seller is unable to deliver the Goods at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

3. Non-Delivery.

(a) The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's Delivery Point is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

(b) The Seller shall not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within two calendar days of the date when the Goods would in the ordinary course of events have been received.

(c) Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

4. Quantity. If Seller delivers to Buyer a quantity of Goods of up to 50% more or less than the quantity set forth in the Sales Confirmation, Buyer shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Sales Confirmation adjusted pro rata.

5. Shipping Terms. All deliveries are made EX WORKS Delivery Point according to Incoterms 2020, unless otherwise agreed in writing by both Seller and Buyer.

6. Title and Risk of Loss. Title and risk of loss passes to Buyer upon delivery of the Goods EX WORKS at the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Florida Uniform Commercial Code ("UCC"), and Buyer grants to Seller the right to file a related UCC financing statement.

7. Amendment and Modification. These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

8. Inspection and Rejection of Nonconforming Goods.

(a) Buyer shall inspect the Goods within five (5) business days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "**Nonconforming Goods**" means only the following: (i) Goods shipped are different than those identified in Buyer's purchase order; or (ii) the Goods' labeling and/or packaging incorrectly identify the shipment.

(b) If Buyer timely notifies Seller per Section 8(a) of this Agreement of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price (as defined below) for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility located at 1995 SW Martin Hwy, Palm City FL, 34990. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 8(b) are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 8(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

9. Price.

(a) Buyer shall purchase the Goods from Seller at the prices (the "**Prices**", or in the singular use, the "**Price**") set forth in Seller's published price list or formal quotation in force as of the date that Seller accepts Buyer's purchase order. If the Prices should be increased by Seller before delivery of the Goods to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased prices were originally inserted herein, and Buyer shall be billed by Seller on the basis of such increased prices.

(b) All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets.

10. Payment Terms.

(a) Buyer shall pay all invoiced amounts due to Seller within thirty (30) calendar days from the date of Seller's invoice. Buyer shall make all payments hereunder by wire transfer, check, or other mutually acceptable payment method and in US dollars.

(b) Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, reasonable attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for three business days following written notice thereof.

(c) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

11. Limited Warranty.

(a) Product Warranty: For applicable Product warranty term, please contact Seller at Sales-ElatecUSA@elatec.com or from Buyer's local sales representative, and any relevant warranty terms included with the Product documentation. Seller's Goods are intended for consumer applications. Seller assumes no liability for the performance of Goods, except as set forth in the General Warranty Policy. Seller's Goods are not suitable for use in biological hazard applications, nuclear control applications, radioactive areas, or any applications that provide life support or any critical function necessary for the support or protection of life, property or business interests, unless expressly set forth herein or in applicable Goods documentation. Buyer assumes all responsibility and liability for the use of any Goods in any of the foregoing applications.

(b) **EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 11(A), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

(c) Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 11(a). For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

(d) The Seller shall not be liable for a breach of the warranty set forth in Section 11(a) unless: (i) Buyer gives written notice of the defect, reasonably described to Seller within five business days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the Goods are defective.

(e) The Seller shall not be liable for a breach of the warranty set forth in Section 11(a) if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of Seller.

(f) Subject to Section 11(d) and Section 11(e) above, with respect to any such Goods during the Warranty Period, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the Price of such Goods at the pro rata contract rate provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Goods to Seller.

(g) THE REMEDIES SET FORTH IN SECTION 11(F) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11(A).

(h) Unless otherwise agreed in writing or per email, the Warranty Period will be for a period of twelve (12) months from the date of delivery to the Buyer.

12. Limitation of Liability.

(a) IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED ONE TIME THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER or \$500.00, WHICHEVER IS LESS.

13. Compliance with Law. Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

14. Termination. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

15. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

16. Confidential Information. All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, Buyer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, 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 this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party. A disclosure of Confidential Information by the Buyer in response to a valid court or governmental order shall not be considered a breach of the Agreement or a waiver of confidentiality for other purposes; provided, however, the Buyer shall give the Seller prior written notice of such order and shall provide reasonable assistance so as to afford the Seller the opportunity to object or obtain a suitable protective order.

17. Force Majeure. The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic and pandemic lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

18. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

19. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

20. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

21. Governing Law. All matters arising out of or relating to this Agreement is governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Florida.

22. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Florida in each case located in the City of Stuart and County of Martin, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

23. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing or per email and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing or per email.

24. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

25. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction and Survival.

26. Standard Product. "Standard Products" are defined as Products that meet Seller's published description and specifications. Standard Products may contain Seller's then current version of standard firmware in effect at the time the order is placed. None of the following are considered Standard Products: cards, tags, keys, and transponders. For additional description of items that are outside of the scope of Standard Products, please see the definition of "Custom Products," below. Buyer may submit changes and cancellations to orders for Standard Product at no additional cost to Buyer within twenty-four (24) hours of Seller's confirmation of Buyer's order. Thereafter, order changes shall be subject to a surcharge of ten percent (10%) of the then current chargeable amount for the affected portion of the order; and order cancellations shall be subject to a surcharge of thirty percent (30%) of the then current chargeable amount for the affected portion of the order. Acceptance of any changes or cancellations and the imposition of any of the aforementioned surcharges shall be at Seller's sole discretion.

27. Custom Products. "Custom Products" are defined as (a) pre-programmed card readers (b) preprogrammed cards, tags, keys, and transponders, (c) card readers, cards, tags, keys and transponders with custom marking and/or printing, and (d) any Product subject to custom-engineering or modification. By way of example only, custom-engineering or modification may include, but are not limited to, such things as custom firmware, Product housings that are not Seller's published standard colors or sizes, and changes made to a Product when it is received by Reseller, including changes to housings, programming, and operating parameters. ORDERS FOR CUSTOM PRODUCTS ARE NON-CHANGEABLE AND NON-CANCELABLE. ORDERS FOR CARDS OR OTHER CREDENTIALS PLACED BY BUYER ARE NON-CHANGEABLE AND NON-CANCELABLE. Custom Products require a signed approval of the Product specification by both Seller and Buyer, a formal quotation from the Seller, a purchase order by Buyer, and an order acceptance by Seller.

28. Availability and Design. Seller reserves the right to discontinue the manufacturing of any of the Goods, to make changes in the design of Goods, or to make modifications to the Goods at any time that do not affect the form, fit or function of the Goods without prior notice to Buyer. In any such event, Seller will not be required to change Goods previously sold to Buyer. No part of this Section will be deemed to affect any Buyer orders that have been previously accepted by Seller.

29. Ownership. Seller and its licensors retain all right, title and interest in any software product, firmware, documentation and any Seller trademarks made available to Buyer under this Agreement; all translations and derivatives works of the foregoing; and all Seller intellectual property rights embodied in or relating to the foregoing as well as all Seller intellectual property rights embodied in or relating to the Seller hardware. All software is licensed, not sold. No right or license is granted to Buyer except as expressly set forth herein and Seller hereby reserves all rights not expressly granted to Buyer in this Agreement. Buyer shall take no action that might impair in any way any right, title, or interest of Seller in or to the software, firmware, documentation or trademarks or other Seller intellectual property or confidential information made available to Buyer. Buyer agrees to maintain the copyright, trademark and other notices that appear on the Seller items and associated media.

30. Third Party Technologies. The Goods may include or be bundled with other technology or software programs licensed under different terms and/or licensed by a vendor other than Seller. Use of any software programs accompanied by a separate license agreement is governed by that separate license agreement. Any third-party software that may be provided with the Goods is included for use at Buyer's option. Seller is not responsible for any third party's software and shall have no liability for Buyer's use of third-party software. Goods that include third party technology may be subject to use restrictions as notified by Seller. Buyer acknowledges actual notice of any such restrictions and agrees to use and sell such Goods and otherwise operate Buyer's business in accordance with such restrictions. Buyer will also indemnify and hold Seller harmless from any claim, demand, cause of action or damage for which Seller might become liable, arising from or in connection with Buyer's use of such Goods or otherwise not in compliance with such restrictions.

31. Press Releases. Any and all press releases and other public announcements relating to the existence or terms of this Agreement or the underlying transactions between the Parties, or referring to the other Party in relation to this Agreement, including the method and timing of such announcements, must be approved in advance by the Parties in writing.

32. Independent Contractor. Nothing in this Agreement is intended to create a partnership, franchise, joint venture or agency, or a fiduciary or employment relationship. Neither Party may bind the other Party. Except as otherwise set forth herein, each Party shall bear its own costs and expenses in performing this Agreement.

33. Services. If Buyer is purchasing any services from Seller (the "Services"), either directly or indirectly through Seller's sales channel, unless Buyer and Seller have signed a written agreement to the contrary, the following terms shall apply to those Services. Seller provides for a limited warranty that all Services will be performed in a professional manner consistent with generally accepted industry standards. If there is a breach of the foregoing limited warranty, Buyer's sole and exclusive remedy, and Seller's sole and exclusive liability, will be to re-perform the Services at no additional charge to Buyer. For the avoidance of doubt, the limitation and exclusions of liability in Section 12 above shall also apply to any Services. If any inventions, technology, developments or other work product (collectively, "Work Product") result from the Services, Seller shall own all right, title and interest in and to such Work Product. All Work Product and Services shall be deemed accepted upon delivery or completion of the Services, as applicable.