



## TERMS AND CONDITIONS OF SALE

This Agreement is between STC, LLC (“STC”) and the purchaser (“you”) named on STC’s Quotation for Products and comes into effect upon STC’s acceptance of your Order.

### 1. DEFINITIONS

In this Agreement, except to the extent that the context otherwise requires, the following terms have the following meanings:

- (a) **Hardware** means the audio processing hardware and/or other equipment specified on the Quotation to be sold by STC to you.
- (b) **Order** means your written purchase order for Products based on STC’s Quotation, provided that your written acceptance of a Quotation or your return of a Quotation signed by you (with or without a separate purchase order) shall be construed to be an Order for Products.
- (c) **Product** means Hardware or Software or an integrated hardware/software system comprised of Hardware and Software.
- (d) **Quotation** means STC’s written quotation for Products.
- (e) **Software** means all software, programs and/or code specified on the Quotation to be licensed by to you, together with all updates or modifications which may be provided/licensed by STC to you. The Software may include software licensed or provided to STC by third parties.
- (f) **Warranties** means STC’s applicable warranties for Products, as referred to in Clause 8 (*Warranty*).

### 2. QUOTATION ACCEPTANCE AND ORDERS

- 2.1 This Agreement comes into effect upon STC accepting your Order by notice in writing to you and, until such time, your Order is not binding. Placement of an Order by you shall constitute your acceptance of the Quotation. Acceptance of the Quotation shall constitute acceptance of the terms and conditions in this Agreement to the exclusion of any other terms or conditions referred to in your Order or any other document of yours. Any proposed variations from or additions to this Agreement contained in any Order or other document submitted by you to STC will be null and void unless agreed to in writing by STC.
- 2.2 STC shall have no liability under this Agreement until the applicable purchase price deposit required under the payment terms has been received by STC.
- 2.3 STC reserves the right to charge for any variations requested by you to any Order or Quotation, or to refuse any such request. For any requested variation or non-standard requirement, you must provide STC with full and adequate instructions, drawings and specifications before STC can accept such request. No variation request will be effective unless the revised price and terms has been signed and accepted by you in writing.

### 3. PRICE AND PAYMENT

- 3.1 The price for the Products and the payment terms are as stated on the Quotation. Payment shall be made in full in the currency specified in the Quotation in cash, by check, by Credit Card if agreed or by electronic funds transfer or irrevocable letter of credit in a form and on terms approved by STC.
- 3.2 The deposit paid shall be forfeited by you if you subsequently cancel your order to purchase the Products, without prejudice to any other rights of STC.
- 3.3 No counterclaim, deduction or set off may be deducted by you from any payment due to STC on any account whatsoever without the prior written consent of STC.
- 3.4 Unless otherwise stated on the Quotation, all prices for Products are ex-works STC’s premises in Brattleboro VT, USA and do not include the costs of freight, transportation, packaging or insurance. All such additional costs shall be borne by you.
- 3.5 All prices for the Products are exclusive of all excise, sales, use, transfer and other taxes and duties imposed by any governmental authority, all of which taxes and duties must be paid by you.
- 3.6 If after the date of this Agreement there is any increase in the cost or charge for freight, insurance, tax, duty or any other amount payable by you then STC will use its best efforts to promptly notify you in writing of the additional charges.

STC, LLC

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- 3.7 All overdue amounts owed by you will bear interest at the rate of 2.0% per month on the unpaid amount calculated daily from the due date for payment until the date of payment in full.
- 3.8 If you are in default in payment of any amount under this Agreement then, without prejudice to any other rights it may have, STC reserves the right to:
- (a) to delay the issue of appropriate activation of the Software; and /or
  - (b) suspend the delivery of any other Products to be sold to you by STC under any other agreement, until the purchase price and any other amount owing by you to STC under this Agreement has been paid in full.

#### **4. DELIVERY, RISK AND TITLE**

- 4.1 All packing and methods of transport and shipment will be selected by STC, but STC assumes no liability in connection with shipment, and no carrier will be deemed to be STC's agent.
- 4.2 Unless otherwise agreed products are supplied FOB Brattleboro VT, USA Risk of loss for Products shall pass to you upon delivery of the Products to the carrier for shipment to you at STC's premises in VT
- 4.3 STC shall use reasonable efforts to meet requested delivery dates, but will not be liable for its failure to do so.
- 4.4 Subject to Clause 5 (*Software Title and Licence*), title to the Products shall remain with STC and shall not pass to you until all sums due under this Agreement to STC have been paid in full by you.
- 4.5 Until title passes to you:
- (a) you shall hold all Products as bailee for and fiduciary agent of STC;
  - (b) you shall not incorporate the Products in, or use the Products as material for, other goods or products;
  - (c) you shall store the Products separately from those of third parties at no cost to STC in such a way that they are easily identifiable as the property of STC;
  - (d) you shall store the Products safely and keep them in good condition, and insure them against all risks normally insured (including fire, theft and accidental damage) to their full replacement value.
  - (e) if you are in breach of this Agreement, STC may (without prejudice to any other rights it may have) recover and resell any or all of the Products supplied to you upon demand at any time, and you grant STC an irrevocable right to access the Products to enable STC to retake possession of the Products.

#### **5. SOFTWARE TITLE AND LICENCES**

Title to Software, including all intellectual property rights in the Software, shall at all times remain in STC or third party suppliers. Your right to use the Software shall be subject to the terms of the licence. STC grants, and you accept, a non-exclusive software licence to use the Software on and in connection with the Hardware subject to and in accordance with the terms of this Agreement.

#### **6. CONFIDENTIALITY**

You acknowledge that the Products may contain proprietary and confidential information and property of STC and other third party suppliers. You will not use any such confidential information for any purpose other than as permitted by this Agreement, nor disclose or otherwise provide any such confidential information to any person other than your employees or contractors who have reasonable need to access same to carry out their duties.

#### **7. COMPLIANCE WITH LAWS**

You are responsible for obtaining all permits or licenses required in connection with the purchase, shipment, installation and use of the Products, including any licenses required under any export control regulations or other laws.

#### **8. WARRANTY**

All sales of Products are subject to STC's Warranties, copies of which are available at <http://www.STCGear.com>

#### **9. EXCLUSION OF IMPLIED WARRANTIES**

- 9.1 To the extent permitted by law, the terms of the Warranties and the rights and remedies set out therein are exclusive and are in lieu of all other warranties, rights and remedies relating to sales of the Products, whether oral or written, express or implied. STC specifically disclaims any implied warranties, terms or conditions, including any implied warranty of merchantability or fitness for a particular purpose or non-infringement. If STC cannot lawfully disclaim an implied warranty, term or condition, then (to the extent permitted by law) any such warranty, term or condition shall be limited in duration to the term of this Agreement or the Warranties and the rights and remedies shall be only as provided in this Agreement or the Warranties.
- 9.2 These exclusions or limitations may not apply as your local laws may not permit exclusion of an implied warranty, term or condition, or limitation on how long it lasts.

## EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY

- 9.3 To the extent permitted by law, STC shall in no event be liable for:
- (a) any special, indirect, incidental or consequential damages that may arise under this Agreement, whether by reason of breach of contract, breach of warranty, strict liability, negligence or otherwise, including any lost profits, downtime, loss or damage to goodwill or any other business loss or damage; or
  - (b) any loss or damage to data, software, programs, information, sounds, audio recording or sequences stored in or installed on or used with any STC Product or any part thereof or on any media, including the cost of recovering or reproducing same.
- 9.4 To the extent permitted by law, STC's aggregate liability arising under this Agreement, whether based on breach of contract, breach of warranty, strict liability, negligence or otherwise, including liability for its contractors, employees or agents, shall be limited to the total amount paid by you to STC in respect of the particular Product giving rise to the liability.
- 9.5 These limitations apply even if you are not fully compensated for any loss or damage you may suffer or incur.
- 9.6 These limitations do not apply to liability for death or personal injury caused by STC's negligence or fraud, or other liability that cannot lawfully be excluded or restricted.
- 9.7 These limitations may not apply as your local laws may not permit a limitation of liability or of consequential damages.

## 10. STC DESCRIPTIONS AND REPRESENTATIONS

- 10.1 STC's published specifications, descriptions, measurements or capacities in respect of the Products contained in any document are approximate only and do not form part of the terms and conditions of this Agreement.
- 10.2 To the extent permitted by law, you acknowledge that you have not relied on any representation made by STC other than as set out in this Agreement.

## 11. DEFAULT AND TERMINATION

- 11.1 If either party ceases to perform or fails to comply with any of the terms and conditions of this Agreement and such failure is not remedied within 30 days of receipt of written notice thereof from the other party, then the other party shall have the right to terminate this Agreement by notice in writing effective immediately.
- 11.2 Any provisions of this Agreement which are capable of having effect after termination and which expressly or by implication are intended to survive termination shall remain in full force and effect notwithstanding termination of this Agreement.
- 11.3 Termination is additional to and without prejudice to any rights or remedies a party may have against the other in respect of any act or omission under this Agreement prior to termination or any claims outstanding at termination.

## 12. GENERAL

- 12.1 **Force majeure:** STC shall be under no liability for any delay or failure to perform its obligations under this Agreement in the event that the supply or delivery of the Products is prevented or delayed by any acts or circumstances beyond STC's reasonable control including but not limited to fire, explosion, natural or man-made disaster, strikes or other industrial disputes, failure of its suppliers to supply any goods, inclement weather or governmental action.
- 12.2 **Waiver:** Any failure or delay on the part of STC at any time to enforce any provision of this Agreement shall not be construed to be a waiver by STC of any of its contractual rights or a waiver of any other breach of such provision.
- 12.3 **Severability:** If any provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected and shall continue in effect as though the invalid provisions were deleted.
- 12.4 **Governing Law:** Except where the local laws of the country in which you are based specifically take precedence over any of the terms set out in this Agreement, this Agreement shall be governed by the laws of the State of Vermont, USA, and the parties submit to the non-exclusive jurisdiction of the Vermont courts.
- 12.5 **Entire Agreement:** This Agreement supersedes all prior agreements and understandings between the parties (written or oral) related to the subject matter herein and is intended by the parties to be the complete and exclusive statement of the terms of their agreement.
- 12.6 **Notice:** Any notice to be given under this Agreement shall be in writing and may be delivered to a party by hand delivery, prepaid mail, facsimile or email to that party's current notified postal address, facsimile number or email address.