



LIQUID ROBOTICS, INC. TERMS AND CONDITIONS

1. **Scope.** The terms and conditions set forth in this agreement (the “**Agreement**”) apply to all quotations issued and purchase orders accepted by Liquid Robotics® (“**LR**”) for the sale to any customer (“**Customer**”) of any Wave Glider® System(s) and any spare parts, components, or other materials listed on any LR Quote (as defined in Section 2) (the “**Products**”), the license of software related thereto, and the provision of any professional services listed on any LR Quote or any data. To the extent the Products contain, consist of, or access or rely upon software or software services in any form (such software, software services, and any documentation related thereto, the “**Software**”), such Software is licensed to or accessed by Customer, and not sold, solely in accordance with the terms and conditions referenced in Section 5. Terms such as “sell” and “purchase”, as used in this Agreement, apply only to the extent the Products consist of items other than Software. The terms of this Agreement will apply whether or not they are enclosed with the Products sold hereunder.

2. **Ordering.** LR will deliver an LR quote to Customer that specifies the Products and Professional Services to be sold to Customer, any applicable Software and Data associated therewith, and the order details for such offerings (the “**LR Quote**”). If Customer desires modifications to the descriptions, pricing, scope, or quantities of any Products, Professional Services, Software or Data, Customer will notify LR and LR will deliver a new LR Quote that reflects any modifications agreed to by LR. If Customer desires to purchase Products or Professional Services, and any Software or Data associated therewith, Customer will agree to the LR Quote by returning the LR Quote signed by an authorized representative of Customer or submitting a written purchase order for the Products, Professional Services, Software and/or Data specified on the LR Quote. Additionally, within a reasonable time after Customer’s acceptance of an LR Quote, LR will provide to Customer a shipment date for applicable Products in writing (“**Shipment Date**”). If Customer does not accept the Shipment Date, Customer’s sole and exclusive remedy is to terminate the LR Quote in writing within five business days of receipt from LR. If Customer accepts the Shipment Date, or does not respond within five (5) business days of its receipt thereof, the Shipment Date, as qualified by Section 3, will become part of the LR Quote and this Agreement. This Agreement constitutes the entire agreement between LR and Customer with respect to the terms and conditions applicable to the Products and Professional Services being purchased by Customer and the Software and Data associated therewith. LR’s acceptance of Customer’s order is expressly conditioned on Customer’s unconditional assent to this Agreement in lieu of any terms and conditions in Customer’s purchase order or in any other Customer communication. LR hereby rejects any terms or conditions in Customer’s purchase order or in any other Customer communication that conflict with or that purport to add to or modify this Agreement. All such terms and conditions will be deemed stricken and will be null and of no effect. No changes, reschedules, or cancellations of any Products, Professional Services, Software or Data ordered nor any modifications to the terms and conditions set forth herein may be made without LR’s written consent.

3. **Shipment & Delivery.**

3.1. Customer acknowledges that all scheduled shipment dates, including the Shipment Date, are estimates only. LR will make reasonable efforts to meet the scheduled shipment dates, but in no event will LR be liable for any loss, damage, or penalty resulting from any delay in shipment or delivery, nor will the carrier be deemed an agent of LR. If the scheduled delivery of the Products is delayed by Customer, a Force Majeure event (as defined in Section 14.5), or other export/shipping regulations outside of LR’s reasonable control, LR may deliver the Products by moving them to storage for the account of and at the risk of Customer. LR will have the right to allocate its available inventory of the Products among its customers in such manner as LR deems equitable. LR will have the right to delay or suspend shipment of the Products if Customer fails to make any payment as provided in this Agreement or if Customer fails to meet LR’s credit or financial requirements.

3.2. For orders within the United States, LR will ship the Products, and title (excluding any intellectual property and software in the Products) and risk of loss or damage to the Products shall pass to Customer FOB LR’s point of shipment. For orders outside the U.S., LR will ship the Products, and title (excluding any intellectual property and software in the Products) and risk of loss or damage to the Products shall pass to Customer, Ex-Works (Incoterms 2000) LR’s point of shipment. LR will select the method of shipment and the carrier if

Customer has not done so (and notified LR of its selection) at least ten (10) days prior to the Shipment Date and shall bill Customer accordingly.

4. Inspection and Acceptance. At Customer's request, at least ten (10) business days prior to the Shipment Date, Customer may inspect the Products at LR's designated facilities, and must accept or reject them in writing within such period. If Customer elects not to inspect the Products prior to shipment to Customer, use of the Products by Customer, its agents, employees or licensees, or the failure of Customer to reject the Products within ten (10) calendar days following Customer's receipt of such Products, shall constitute acceptance by the Customer. Customer understands and agrees that Customer may elect not to accept the Products only if such system fails to conform in a material respect to the LR Quote. If Customer rejects the Products, Customer must provide LR with the specific reasons for such rejection and provide LR a reasonable opportunity to inspect the Products. Customer may return Products to LR only upon LR's prior written authorization.

5. Software and Data.

5.1. Hosted WGMS Software Services.

(a) The Software to control and monitor Products that are Wave Glider Systems is the Wave Glider Management System ("**WGMS**"), which is a web-based software service hosted by LR and made available to Customer through the Internet from a URL (the "**URL**") to be provided to Customer ("**Software Service**"). LR may change the URL from time to time upon no less than a ten (10) day notice to Customer. Customer acknowledges that the Software Services are not designed, intended or authorized for use in hazardous or mission-critical circumstances or for uses requiring fail-safe performance such as the operation of nuclear facilities, aircraft navigation or communications systems, air traffic control systems or weapons control systems, or where failure could lead to death or personal injury. Customer shall not use the Software Services for such purposes or under such circumstances.

(b) Subject to the terms and conditions of this Agreement and Customer's compliance therewith, including but not limited to any Software Service restrictions and conditions in an LR Quote, commencing on the delivery of the Products and continuing until one year from the LR Quote Date ("**Subscription Term**"), Company will provide the Software Services to Customer. The Subscription Term will be extended only upon the mutual written agreement LR and Customer. Customer may access and use the Software Services solely during the Subscription Term and solely for the Limited Purpose and such access and use is expressly limited to the number of Number of Users, where:

(i) "**Number of Users**" means the number of individual Users authorized to access and use the Software Service through the assignment to each such individual of authorization information (e.g., a single user name and password allocation). For sake of clarity, Users means individuals authorized to access and use the Software Service regardless of whether or not the individuals are using the Software Service at any given time, as distinct from concurrent usage. The number of individuals so authorized will be specified in an LR Quote.

(ii) "**Limited Purpose**" means to control and view the status of Products solely for internal business purposes; provided that in no event will Customer use the Software Services for any purpose related to the oil and gas industry.

5.2. Embedded Software. Any Software delivered with and installed on Products is referred to herein as "**Embedded Software**." Subject to Customer's compliance with the terms herein, LR grants to Customer a nonexclusive, perpetual, nontransferable license to use the Embedded Software, in executable form, solely as embedded in the Products, solely for Customer's internal business use. In no event will Customer use the Embedded Software for any purpose related to the oil and gas industry.

5.3. Rights & Restrictions. LR reserves all rights and licenses in and to the Software and Software Services not expressly granted to Customer under this Agreement, and Customer acknowledges that the Software and Software Services contain trade secrets of LR. Customer will not, nor will Customer allow anyone else to, directly or indirectly: (i) sell, rent, lease, sublicense, distribute or otherwise transfer the Software or Software

Services or any portion thereof; (ii) except as expressly permitted in this Agreement, use, copy, display, or perform the Software or Software Services, or any portion thereof; (iii) connect to any LR server or any server of the Software Services except using a device or authorization provided by LR; (iv) modify, translate or create derivative works based on the Software or Software Services or any portion thereof; (v) unless expressly permitted in writing by LR, make the Software or Software Services available in any manner to any third party for use in the third party's business operations or to provide hosting, service bureau, time-sharing or similar services to a third party; (vi) disable or circumvent any access control or related device, process or procedure established with respect to the Software or Software Services; or (vii) use the Software or Software Services for any purpose that is unlawful or that violates or is inconsistent with applicable laws or regulations. Customer shall keep confidential and not disclose to any third parties, and shall ensure that Customer's Users keep confidential and do not disclose to any third parties, any user identifications, account numbers and account profiles. Customer is responsible for all use of the Software or Software Services, and for compliance with this Agreement, by its users; any breach by Customer or any user acting on Customer's behalf shall be deemed to have been made by Customer.

5.4. Data. During the Subscription Term, if the LR Quote indicates that LR will make data acquired by LR from the Products ("**Data**") available to Customer, LR shall make such Data available to Customer through the URL or other means determined by LR, such as a written or electronic report. The Data shall be owned by Customer, and Customer hereby grants to LR a non-exclusive, worldwide, perpetual, irrevocable, sublicensable, royalty-free, fully paid-up right and license to use, reproduce, distribute, modify, prepare derivative works of and display Data in an aggregated manner and without reference to Customer in connection with LR's provision of Software Services and to provide or improve its products or services. Any other data collected by LR is the sole and exclusive property of LR. Customer agrees to use the Data in accordance with all applicable laws and regulations. Customer will not: (i) permit any third party to directly access or use the Data through the URL or otherwise; (ii) obtain any data, information or materials through any means not intentionally made available by LR to Customer, or attempt to gain unauthorized access to the Data, the URL, or any technology, computer systems, or networks associated with the Software Services; (iii) attempt to index, search, or crawl the URL with any automated process or other similar mechanism; or (iv) use the Data to offer or provide a product or service that competes with LR or any of its affiliates or for any purpose related to the oil and gas industry. LR shall have the right to change the content or the format or frequency in the delivery method of the Data, provided that such changes are limited to those that LR makes generally to data provided to its other customers. LR will use commercially reasonable efforts to furnish Customer with no less than thirty (30) days prior written notice of any material changes that LR makes to the content or the format or frequency in the delivery method of the Data.

5.5. Telecommunications and Internet Services. Customer acknowledges and agrees that Customer's and its Users' access to and use of the Data and Software Services is dependent upon access to telecommunications and Internet services. Customer shall be solely responsible for acquiring and maintaining all telecommunications and Internet services and other hardware and software required to access and use the Data and Software Services, including, without limitation, any and all costs, fees, expenses and taxes of any kind related to the foregoing. Company shall not be responsible for any loss or corruption of data (including but limited to the Data), lost communications or any other loss or damage of any kind arising from any such telecommunications and Internet services.

5.6. Open Source Software. The Software may contain or be provided with components subject to the terms and conditions of "open source" software licenses ("**Open Source Software**"). To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including any provisions governing access to source code, modification or reverse engineering.

6. Services.

6.1. LR Obligations. LR will provide the following services to Customer only if explicitly described in an LR Quote (the "**Professional Services**"):

(a) *Installation, Configuration, and Design Services.* LR will provide the services as described in the applicable LR Quote to assist Customer with installation, configuration, and adaptation of the Products and Software Services.

(b) *Training Services.* LR will provide the training services at the locations, dates, and for the individuals set forth in the applicable LR Quote.

(c) *Launch & Recovery.* LR will provide to Customer launch and recovery services in accordance with the “launch and recovery” statement of work attached to the LR Quote (the “**L&R Statement of Work**”). The L&R Statement of Work can be modified only with the mutual written agreement of LR and Customer.

(d) *Maintenance & Service.* LR will provide to Customer maintenance and services ordered pursuant to an LR Quote in accordance with the requirements and guidelines that are set forth in such LR Quote.

(e) *Piloting Services.* LR will provide “**Piloting Services**” in accordance with the piloting services statement of work attached to the LR Quote (the “**Piloting Statement of Work**”). The Piloting Statement of Work can be modified only with the mutual written agreement of LR and Customer. LR’s obligation to provide Piloting Services is subject to any disruption of Piloting Services caused by Customer, including but not limited to any piloting performed or directed by Customer via the WGMS and Software Service that conflict with or disrupts the Piloting Services, and LR shall not be responsible for any damage that results from such piloting by Customer or at Customer’s direction.

6.2. Customer Obligations. Customer will perform Customer’s duties and tasks explicitly set forth in any LR Quote or statement of work associated therewith, and such other duties and tasks as may be reasonably required to permit LR to perform the Professional Services. Customer will also make available to LR any data, information and any other materials required by LR to perform the Professional Services, including, but not limited to, any data, information or materials specifically identified in the LR Quote or a statement of work associated therewith (the “**Customer Materials**”). Customer will be responsible for ensuring that all such Customer Materials are accurate and complete.

7. Pricing & Payment

7.1. Price; Taxes. Customer shall pay LR the price(s) for the Products, Professional Services, Software and Data specified in the LR Quote and the costs of any maintenance and services provided pursuant to Section 7. All prices are stated in United States Dollars. The prices for the Products and Professional Services do not include shipping, transportation, handling or insurance, or applicable foreign, federal, state and local excise, sales, value-added, use, withholding taxes and customs duties, and other similar charges (“**Taxes**”). Such charges, when applicable, will appear as separate additional items on the invoice. Customer will indemnify and hold LR harmless from and against any liabilities, interest, penalties or fees assessed against LR arising from any failure by Customer to pay any Taxes.

7.2. Payment Terms. All invoices issued by LR will be due and payable thirty (30) days from the date of the invoice. LR reserves the right, for international shipments, or based on LR’s assessment of Customer’s financial condition or payment record, to require payment in advance or to require Customer to obtain an irrevocable letter of credit. Any amount remaining unpaid thirty (30) days after the date of LR’s invoice will accrue interest at the rate of 1½% for each month or fraction thereof that such amount is overdue, or the highest interest rate permitted by applicable law. Customer will reimburse LR for all reasonable costs and expenses incurred (including reasonable attorneys’ fees and other legal costs) in collecting past due amounts owed by Customer. Payment obligations hereunder are non-cancelable and any sums when paid are non-refundable. LR hereby reserves and Customer hereby grants to LR a purchase money security interest in the Products sold and the proceeds thereof until Customer has paid the total amount invoiced by LR for the Products. Customer agrees to execute any financing statements or other documents as LR requests to protect LR’s security interest.

8. Limited Warranty & Disclaimers

8.1. **Limited Product Warranties.** Subject to the limitations and restrictions herein, LR warrants that the Products shipped to Customer under this Agreement, excluding any Software therein or related thereto, will for 365 calendar days from the Shipment Date (the “**Warranty Period**”) (a) materially conform to and materially perform in accordance with the functional specifications specifically set forth in the LR Quote, under normal use and operation and subject to the limitations and Excluded Failures set forth in Section 8.6 herein; and (b) be free from defects in materials and workmanship in all material respects (the “**Limited Product Warranty**”). The Limited Product Warranty does not apply: (i) to any Software, Software Services, Data or Professional Services; (ii) to any third-party equipment, components, or other technology included in or provided with the Products, provided, however, that LR agrees to pass-through any warranties offered by the suppliers of such third-party technologies to the extent such warranties are possible to pass through at no cost to LR; or (iii) if any maintenance or service on the Products is performed by anyone other than LR or technicians that have been certified by LR in writing.

8.2. **Limited Services Warranties.** LR warrants that the Professional Services will be performed in a good and workmanlike manner consistent with applicable industry standards. This warranty will be in effect for a period of thirty (30) days from the completion of any Professional Service (the “**Limited Services Warranty**”).

8.3. **Disclaimer.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS SECTION 8, THE PRODUCTS, PROFESSIONAL SERVICES, DATA, SOFTWARE SERVICES AND SOFTWARE ARE PROVIDED “AS IS”, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, LR EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, NON-INFRINGEMENT AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. LR MAKES NO WARRANTY THAT THE PRODUCTS, PROFESSIONAL SERVICES, DATA, SOFTWARE SERVICES OR SOFTWARE WILL (1) MEET THE REQUIREMENTS OF CUSTOMER, OR (2) BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. LR MAKES NO WARRANTY REGARDING THE QUALITY, ACCURACY, TIMELINESS, COMPLETENESS, OR RELIABILITY OF ANY DATA. NO INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM LR OR THROUGH THE PRODUCTS, SOFTWARE SERVICES OR SOFTWARE WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN AND LR MAKES NO WARRANTY THAT THE PRODUCTS, PROFESSIONAL SERVICES, SOFTWARE SERVICE AND SOFTWARE WILL OPERATE OR BE COMPATIBLE WITH ANY THIRD PARTY SOFTWARE OR HARDWARE. LR IS UNDER NO OBLIGATION TO RETAIN ANY DATA AND LR WILL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES RESULTING FROM THE USE OF THE DATA. SOME JURISDICTIONS DO NOT ALLOW EXCLUSION OF CERTAIN WARRANTIES SO THIS DISCLAIMER MAY NOT APPLY TO CUSTOMER IN FULL.

8.4. **Exclusive Remedies.** IF THE PRODUCTS FAIL TO CONFORM TO THE LIMITED PRODUCT WARRANTY DURING THE WARRANTY PERIOD SET FORTH IN SECTION 8.1, CUSTOMER’S SOLE AND EXCLUSIVE REMEDY, AND LR’S SOLE AND EXCLUSIVE LIABILITY, SHALL BE THE REPAIR OR REPLACEMENT (AT THE SOLE OPTION OF LR) OF THE AFFECTED PART OR PORTION OF THE PRODUCTS AT LR’S EXPENSE. IF THE PROFESSIONAL SERVICES FAIL TO CONFORM TO THE LIMITED SERVICES WARRANTY DURING THE WARRANTY PERIOD SET FORTH IN SECTION 8.2, CUSTOMER’S SOLE AND EXCLUSIVE REMEDY, AND LR’S SOLE AND EXCLUSIVE LIABILITY WILL BE, AT LR’S SOLE OPTION AND EXPENSE, TO PROMPTLY RE-PERFORM THE PROFESSIONAL SERVICE OR REFUND TO CUSTOMER THE FEES PAID FOR ANY NON-CONFORMING PROFESSIONAL SERVICE.

8.5. **Return Process.** Customer agrees to promptly notify LR customer support by telephone or email as described in the Wave Glider User Manual, of the nature of any alleged failure or defect, and cooperate with LR customer support to determine if the affected part or portion of the Products can be repaired or replaced at Customer’s location by Customer personnel. If authorized by LR (by obtaining a return authorization from LR) Customer agrees to promptly return the affected part or portion or the Products (as directed by LR customer support) to the location designated by LR. LR will examine the affected part or portion of the Products at the designated location to determine to LR’s satisfaction whether the alleged non-conformance, failure or defect actually exists, is in breach of the Limited Product Warranty herein, and if the cause of such non-conformance, failure, or defect is

within the limitation described in Section 8.6 herein. LR shall have a reasonable time to make repairs or replace such affected part or portion of the Products that fail to conform to the Limited Product Warranty. Any part or portion of the Products repaired or replaced under the Limited Product Warranty shall be warranted until the termination of the Warranty Period. If LR determines the Products are not in breach of the Limited Product Warranty, the Customer will pay LR all costs of shipping, handling, inspection and repair. Customer agrees that replacement parts utilized in warranty services may be new, remanufactured and/or refurbished. All replaced parts or portions of the Products shall be the property of LR, on an exchange basis. LR shall not be responsible for Customer's or any third party's software, firmware, information, or memory data contained in, stored on, or integrated with any Product returned to LR for repair, whether under warranty or not.

8.6. **Limitations.** The limited warranties set forth in Section 8.1 and Section 8.2 extend only to Customer and are contingent upon proper use of the Products in accordance with the Wave Glider User Manual and all other manuals and documentation supplied to Customer by LR with or prior to the delivery of the Products. The limited warranties will not apply to any non-conformities or failures caused by: (a) accident, collision, neglect, abuse, or misuse, including but not limited to Customer's failure to comply with the maintenance and service requirements and guidelines that are set forth in the User Manual; (b) use of the Products with any equipment or software not furnished by LR; (c) Customer's use of the WGMS; (d) any payload added by Customer; (e) alteration or repair of the Products by anyone other than LR (including, but not limited to, integration of sensors or other payloads or Product Customizations); (f) Iridium, Internet, or other communications network failures or disruptions; or global positioning system, or other localization system failures or disruptions; (g) damage to the Products caused by (1) biofouling or other normal wear and tear caused by exposure to marine conditions and weather or (2) Professional Services that are performed in accordance with Customer's instructions; (h) use of the Product in combination with any third-party devices or products that have not been provided by LR or (i) Acts of God (any of the foregoing an "**Excluded Failure**"). LR WILL HAVE NO LIABILITY FOR ANY LOSS OR DAMAGE RELATING TO THE EXCLUDED FAILURES SET FORTH IN THIS SECTION.

9. **Indemnity.**

9.1. **By LR.** LR agrees to defend, indemnify, and hold Customer, its subsidiaries, and affiliates, and their respective directors, officers, shareholders, employees, agents and representatives (the "**Customer Indemnified Parties**") harmless from any expenses, costs, judgments, damages, loss, liability, claim, or demand (including but not limited to any reasonable attorneys' and experts' fees and expenses) ("**Claim**") arising out of any third party claim based on (a) infringement by the Products or Software Services of any third party intellectual property rights or (b) LR's gross negligence or willful misconduct in performing the Professional Services. LR's obligation to indemnify the Customer Indemnified Parties is conditioned on: (i) the Customer Indemnified Parties promptly informing and furnishing LR with a copy of each communication, notice or other action relating to the Claim, (ii) the Customer Indemnified Parties allowing LR to assume full control of the defense and settlement of the Claim, and (iii) the Customer Indemnified Parties assisting and cooperating with LR in connection with the defense and settlement of the Claim. LR will have no obligation or liability under this section 9.1 if the infringement results from any Product Customization (defined below) or any combination with, addition to, or modification of the Product or Software Services, or from any breach by Customer of these Terms. If the Product or Software Services become, or, in LR's opinion are likely to become, the subject of such claim of infringement, LR may, at its option and expense, (1) procure rights for Customer to continue using the Product or Software Services as applicable, (2) replace or modify the same so that it performs substantially similar functions but does not infringe, or (3) issue a return authorization to Customer for Customer to return Products to LR and issue a refund to Customer for the pro rata portion of price for such Products as calculated based on a five (5) year straight-line depreciation. LR shall not settle any Claim under this Section 9.1, without Customer's prior written consent, if such settlement would require Customer Indemnified Parties to pay any compensation or to assume any obligations.

9.2. By Customer. Customer will, at its expense, indemnify, defend (at LR's option) and hold LR and its affiliates, officers, directors, employees, shareholders, agents and representatives (the "**LR Indemnitees**") harmless from any expenses, costs, judgments, damages, loss, liability, claim, or demand (including but not limited to any reasonable attorneys' and experts' fees and expenses) ("**Claim**") arising out of any third party claim based on (a) Customer's negligence or willful misconduct in the use, maintenance, or operation of the Products or Software Services; (b) Customer's use or operation of the Products or Software Services in breach of these Terms or in a manner not contemplated or permitted by the LR Quote or Wave Glider User Manual; (c) one or more of the Excluded Failures defined in Section 8.6; (d) Customer's violation of any applicable statute, law, treaty, rule or regulation, whether domestic or foreign, or LR's violation of any such statute, law, treaty, rule or regulation that results from performing the Piloting Services and Launch and Recovery Services in accordance with the instructions of Customer; (e) infringement or misappropriation by Product Customizations (as defined below) of the intellectual property rights of any third party; (f) any use by Customer, LR, or any third-party of the Product Customizations and any damage or liability resulting therefrom; (g) Piloting Services and Launch and Recovery Services that are performed in accordance with Customer's instructions; (g) piloting performed or directed by Customer via the WGMS and Software Service; or (h) territorial or resource infringement or violation based on a Product located at the instruction or piloting of Customer. Customer's obligation to indemnify the LR Indemnitees is conditioned on: (i) the LR Indemnitees promptly informing and furnishing Customer with a copy of each communication, notice or other action relating to the Claim, (ii) the LR Indemnitees allowing Customer to assume full control of the defense and settlement of the Claim, and (iii) the LR Indemnitees assisting and cooperating with Customer in connection with the defense and settlement of the Claim. LR shall have a right of approval of legal counsel selected by Customer to provide LR with the defense of Indemnified Claims. Customer shall not settle any Claim under this Section 9.2 without LR's prior written consent, if such settlement would require LR Indemnitees to pay any compensation or to assume any obligations. If Customer is the U.S. federal government, this Section 9.2 shall not apply to the extent such application would violate the United States Anti-Deficiency Act

10. Limitation of Liability. IN NO EVENT WILL LR BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE, USE, PROFITS, DATA, OR GOODWILL) OR COSTS OF PROCURING SUBSTITUTE PRODUCTS, DATA, SOFTWARE, OR PROFESSIONAL SERVICES, ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT OR THE PURCHASE, SALE, USE, OPERATION, PROVISION OR PERFORMANCE OF THE PRODUCTS, THE DATA, PROFESSIONAL SERVICES, SOFTWARE OR SOFTWARE SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, WHETHER OR NOT LR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. LR AND CUSTOMER HAVE AGREED THAT THESE LIMITATIONS WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. IN NO EVENT WILL LR'S LIABILITY TO CUSTOMER ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY, EXCEED THE ACTUAL AMOUNT PAID TO LR BY CUSTOMER FOR THE PRODUCT OR SOFTWARE SERVICE THAT GIVES RISE TO THE CLAIM. IN NO EVENT WILL LR HAVE ANY LIABILITY TO CUSTOMER OR ANY THIRD PARTY, AND LR DISCLAIMS ANY LIABILITY, RESULTING FROM OR RELATING TO (A) ANY PRODUCT CUSTOMIZATIONS (AS DEFINED IN SECTION 12.2) OR (B) PILOTING SERVICES AND LAUNCH AND RECOVERY SERVICES THAT ARE PERFORMED IN ACCORDANCE WITH CUSTOMER'S INSTRUCTIONS.

11. Compliance with Laws. Customer will comply with all applicable statutes, laws, rules and regulations relating to Customer's use or operation of the Products and Software Services, whether domestic or foreign. LR will not be responsible or liable for any delays in performance of any obligation under this agreement due to Customer's failure to comply with any applicable statutes, laws, rules, and regulations (including, but not limited to, any applicable shipping/export regulations). In addition, upon LR's request, Customer shall provide LR with end user certifications or other documentation related to compliance with shipping/export regulations.

12. Ownership.

12.1. Title to all Software and Software Services and all copies thereof will, at all times, remain solely with LR. Customer agrees not to remove any plaques or labels on or affixed to the Products or any documentation related thereto providing notice of proprietary rights therein. LR owns any and all industrial and intellectual property rights in the Products (and any documentation related thereto), Software, Software Services and anything created by LR or its personnel in performing the Professional Services. Nothing in this Agreement shall be deemed to convey ownership of any intellectual property right to Customer, and Customer agrees not to claim any intellectual property right with respect to the Products (and any documentation related thereto), Software, Software Services or creations by LR or its personnel in performing the Professional Services. Customer acknowledges that the Products (and any documentation related thereto), Software and Software Services contain trade secrets of LR, and, in order to protect such trade secrets, Customer agrees not to disassemble, decompile or reverse engineer the Products (or any documentation related thereto), Software or Software Services nor permit any third party to do so, except to the extent such restrictions are prohibited by law. LR reserves all rights and licenses in and to the Products (and any documentation related thereto), Software and Software Services not expressly granted to Customer under this Agreement.

12.2. No additions, changes, modifications or enhancements to the Products (“**Product Customizations**”) will be made by or on behalf of Customer without the prior written consent of LR. Product Customizations and intellectual property rights therein that exist and are owned by Customer prior to such written notice, and any modifications and improvements made thereto by Customer, will remain the property of Customer. Any other inventions, developments, or other creations by either Party made in the course of Installation, Configuration, and Design Services described in Section 6.1(a) or the implementation of a Product Customization, and all intellectual property rights therein, whether made by or on behalf of LR or Customer, will be owned by LR (the “**LR Customizations**”). Customer hereby irrevocably transfers and assigns to LR, and agrees to irrevocably transfer and assign to LR, all right, title and interest in and to the LR Customizations, including all worldwide patent rights (including patent applications and disclosures), copyright rights, mask work rights, trade secret rights, know-how, and any and all other intellectual property or proprietary rights therein. At LR’s request and expense, Customer will assist and cooperate with LR in all respects, and will execute documents, and will take such further acts reasonably requested by LR to enable LR to acquire, transfer, maintain, perfect and enforce such rights and other legal protections for the LR Customizations. Customer hereby appoints the officers of LR as Customer’s attorney-in-fact to execute documents on behalf of Customer for this limited purpose.

13. Confidentiality.

13.1. Definition. “**Confidential Information**” means any proprietary or confidential information that LR may disclose to Customer in the course providing the Product, Software Services and Professional Services, including, without limitation, software, specifications, inventions, know-how, methods, processes, concepts, techniques, budgets, data or other technical or business information. LR’s Confidential Information shall be deemed to include any information related to the Product (and any documentation related thereto), Software and Software Services. Notwithstanding the above, Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault of or breach of this Agreement by Customer; (b) is rightfully known by Customer at the time of disclosure without an obligation of confidentiality; (c) is independently developed by Customer without use of LR’s Confidential Information; or (d) Customer rightfully obtains from a third party without restriction on use or disclosure.

13.2. Use and Disclosure Restrictions. Customer will not use or disclose LR Confidential Information except as expressly permitted by this Agreement. Notwithstanding the foregoing, Customer may disclose LR Confidential Information to Customer’s employees and subcontractors that need to know such Confidential Information for the purpose of using the Product and Software Services, provided that each such employee and subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein and Customer will be liable for any conduct by such employees or subcontractors that conflicts with the confidentiality obligations and use restrictions herein. Customer will use all reasonable efforts to maintain the confidentiality of all LR Confidential Information in its possession or control, but in no event less than the efforts that Customer ordinarily uses with respect to its own proprietary information of similar nature or importance.

14. Miscellaneous.

14.1. Notice. Any notice, consent, or authorization hereunder will be in writing and will be given in any of the following methods: personally, by facsimile and email with confirmation of receipt, or by overnight courier to a party hereto at its respective address first set forth in the LR Quote, or any such other address as may be designated by written notice of such party as provided under this Section. Notices will be deemed given when first received by any method.

14.2. Choice of Law and Forum, Limitation of Actions. This Agreement and the rights, duties and obligations of the parties hereto are to be governed by, construed and enforced according to the laws of the State of California and controlling U.S. federal law, without regard to any choice-of-law rules or principles. Any dispute arising out of or related to this Agreement shall be resolved only in the state or federal courts having jurisdiction in Santa Clara County, California, U.S.A., and LR and Customer hereby submits to the exclusive jurisdiction of such courts. LR and Customer irrevocably agree to waive any objection to the venue of any such suit or proceeding in Santa Clara County, California, or to in personam jurisdiction, provided that service is effective. The parties disclaim application of the United Nations Convention on Contracts for the International Sale of Goods. Notwithstanding the foregoing, LR may commence proceedings in any other court of its choice of appropriate jurisdiction to obtain an injunction, specific performance or other equitable relief for protection of intellectual property rights. NO ACTION RELATING TO THE PRODUCTS, PROFESSIONAL SERVICES, SOFTWARE OR SOFTWARE SERVICES REGARDLESS OF ITS FORM, MAY BE BROUGHT BY CUSTOMER AGAINST LR OR ITS SUPPLIERS MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED. THE TIME FOR SUIT UNDER THIS AGREEMENT SHALL BE TOLLED DURING ANY MEDIATION CONDUCTED UNDER SECTION 14.10 OF THIS AGREEMENT.

14.3. Severability. Should any term of this Agreement be declared void or unenforceable by any court of competent jurisdiction, if possible, that part will be amended to achieve as nearly as possible the same economic effect as the original provision and, if not possible, that part will be severed, and the remainder of this Agreement will remain in full force and effect.

14.4. Amendment; Waiver. This Agreement may be amended or modified only by a writing that is signed by duly authorized representatives of the parties hereto. No term or provision of this Agreement will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed by an authorized representative of the party against whom the waiver is asserted. The failure of either party to enforce any rights granted under this Agreement or to take action against the other party in the event of any breach under this Agreement will not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches. This Agreement constitutes the complete and exclusive agreement between LR and Customer regarding the Products, Professional Services, Software and Software Services and supersedes all prior or contemporaneous quotations, agreements, communications or understandings, whether written or oral, relating to the Products, Professional Services, Software and Software Services.

14.5. Force Majeure. LR will not be liable for any failure or delay in performance under this Agreement which failure or delay is the result of any Act of God; act of war; perils of the seas; act of public enemies, pirates or assailing thieves; arrest or restraint of government or people; or seizure under legal process; strike or lockout or stoppage or restraint of labor from whatever cause, either partial or general; or riot or civil commotion; fire, flood, unavailability of parts or materials from suppliers; Iridium, internet, or other communications network failures or disruptions; or global positioning system, or other localization system failures or disruptions; or any other contingency, delay, failure, or cause beyond the commercially reasonable control of LR (collectively, a “**Force Majeure**” event). If LR claims a Force Majeure event pursuant to this Section, LR shall provide prompt written notice of such event and its expected duration to the Customer. If the Force Majeure event lasts longer than thirty (30) days, the other Customer may terminate this Agreement immediately upon written notice to LR.

14.6. Relationship of the Parties. The parties to this Agreement are commercial entities. Customer is purchasing the Products and Professional Services and receiving access to the Software Services for its own use and not for resale. Any resale is specifically prohibited without the prior express written consent of LR and the subsequent purchaser’s prior agreement in writing to be bound by the terms and conditions of this Agreement.

LR shall in no event be required to provide any services to any third party purchaser that has not entered into a separate agreement with LR for such services. LR is performing Professional Services as an independent contractor and nothing in this Agreement will be construed as establishing an employment, agency, partnership or joint venture relationship between Customer and LR or any LR personnel. No party has the authority to bind or commit the other party in any way, or to incur any obligation on the other party's behalf.

14.7. Assignment. Customer may not assign this Agreement without LR's express prior written consent. LR may assign its rights or delegate its duties in the event of the sale, transfer, merger, or acquisition of all or substantially all of its business, voting stock or assets or to facilitate accounts receivable financing in the ordinary course of business. Any purported assignment in violation of this Section 14.7 will be void or voidable, at LR's exclusive discretion and option. This Agreement will inure to the benefit of the parties' respective permitted successors and assigns.

14.8. English Language. This Agreement is in the English language only, which language will be controlling in all respects.

14.9. Headings and Signatures. The headings included in this Agreement are for the convenience of the parties only and shall not affect the construction or interpretation of this Agreement. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same document.

14.10. Dispute Resolution. In the event that any controversy or claim arises out of or is related to this Agreement, or the breach thereof (a "**Dispute**"), the parties shall engage in good faith mediation with a third-party neutral mediator selected by mutual agreement of the parties. The mediation shall take place within 30 days from the appointment of the mediator under the procedures provided herein, shall be conducted in accordance with the procedures established by the appointed mediator. A senior officer of each party, each with authority to settle the Dispute, shall participate personally in the mediation and shall be present in person at any meeting with the mediator. Any mediation hereunder shall take place in San Francisco, California. In no event shall either party hereto file suit or cause a suit to be filed concerning a Dispute unless and until: (a) the parties are unable to agree upon a mediator within fifteen (15) days of good-faith negotiation, (b) the mediator determines that continued mediation is futile, despite the good faith efforts of both parties to settle the Dispute through such mediation, or (c) the party to whom the notice of Dispute has been sent refuses to participate in such mediation.

14.11. Export Restrictions. The Products, Software and Software Service and any related technical information or materials may be subject to export controls under U.S. or foreign export laws and/or regulations. Customer will not export or re-export, directly or indirectly, the Products or Software Services, or any technical information related thereto, or any direct products thereof, to any destination or person prohibited or restricted by the export control laws and regulations of the United States, without the prior authorization from the appropriate governmental authorities. If the Products, Software or Software Service is identified as export controlled under U.S. or foreign export laws and/or regulations, Customer represents and warrants that Customer and its personnel are not citizens of, or otherwise located within, an embargoed nation and that Customer and its personnel are not otherwise prohibited under the U.S. or foreign export laws or regulations from receiving the Products, Software or Software Service.

14.12. Entities. For Products and Software sold in the United States, "Liquid Robotics" is either Liquid Robotics, Inc., or Liquid Robotics Federal, Inc., each a Delaware corporation. For Products and Software sold outside the United States, "Liquid Robotics" is Liquid Robotics International, L.P., a British Virgin Islands limited partnership.

14.13. Software. All Software contained in the Products and any related documentation are "commercial items" as that term is defined in FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation," respectively, as such terms are used in FAR 12.212 and DFARS 227.7202. To the extent that the Products are being acquired by or on behalf of the U.S. Government then, as provided in FAR 12.212 and DFARS 227.7202-1 through 227.7202-4, as applicable, the U.S. Government's rights in the software and any related documentation will be only those specified in this Agreement.

14.14 Controlling Provisions. No terms and conditions other than the terms and conditions contained herein shall be binding upon LR unless accepted by it in a writing approved by LR's General Counsel. All terms and conditions contained in any prior oral or written communication, including, without limitation, Customer's purchase order, which are different from or in addition to the terms and conditions herein are hereby rejected and shall not be binding on LR, whether or not they would materially alter this document, and LR hereby objects thereto. All prior proposals, negotiations and representations, if any, are merged herein. Customer will be deemed to have assented to all terms and conditions contained herein if any part of the goods and/or services described herein are shipped or an invoice, purchase order, or quote is presented in connection with the said goods and/or services.