

SiOnyx, LLC

- 1. Offer of Sale.** SIONYX LLC ("**SIONYX**"), offers to sell to the customer first identified in this quotation ("**Customer**") products and services (individually and collectively "**Goods**") based on the terms and conditions found on the earlier page(s) of this quotation and those provided below ("**Terms**"). Unless expressly stated otherwise in this quotation, this offer is available for acceptance under the Terms for thirty (30) days from the date of this quotation ("**Open Period**"). Acceptance of this offer is limited to full acceptance of the Terms and an order by Customer constitutes such full acceptance. SIONYX hereby rejects all terms in Customer's acceptance that are additional to or vary any part of the Terms. No revision of any of the Terms is valid unless made in writing and signed by an authorized representative of SIONYX. This offer is not in any way a manufacturing capacity commitment from SIONYX.
- 2. Purchase Orders.** Customer shall place orders, if any, through email, facsimile, or any commercially reasonable manner approved by SIONYX and Customer. Customer will ensure that all such orders indicate at least the following: specific products or service, quantity, price, total purchase price, the quote number, and "bill to" and "ship to" information.
- 3. Acceptance.** Customer's orders are not binding on SIONYX until accepted by SIONYX. SIONYX may accept an order by sending Customer a written confirmation or by delivering products ordered by Customer. Each Customer order accepted by SIONYX under the Terms (effective at the time of that acceptance) creates a binding contract (referred to as "**Agreement**") between SIONYX and Customer.
- 4. Prices and Taxes.** Unless otherwise mutually agreed by the parties in writing, all prices set forth in the Terms and payment terms for all Goods purchased under the Terms are net 30 to SIONYX. Customer shall pay all applicable freight charges and any and all taxes and duties that are imposed by applicable laws, regulations, or rules arising out of or related to the purchase of such Goods, including without limitation, all sales tax, use tax, and value-added tax. Customer shall pay all such taxes regardless of whether or not they are itemized on SIONYX's invoice.
- 5. Payment.** All of SIONYX's invoices are due in full within the timeframe identified in the field labeled "Payment" set forth earlier in this quotation. If Customer fails to make any payment when due, Customer shall pay SIONYX a service charge on the total amount due at the lesser of 1.5% interest, compounded monthly, or the maximum interest rate allowed by applicable law. SIONYX reserves a security interest in all products sold to Customer until payment in full has been collected and Customer agrees to notify SIONYX prior to relocation of any product in which SIONYX has a security interest. Customer shall execute any document(s), including a financing statement or other document necessary to perfect SIONYX's interest in those products (for example without limitation, the UCC-1 in the United States). Customer authorizes SIONYX to file at Customer's expense any financing statement relative to those products without Customer's signature, except where prohibited by law.
- 6. Availability.** Goods are subject to availability. SIONYX may cancel any order or any part of an order with or without cause at any time and without penalty. SIONYX's sole obligation for such a cancellation is to return any down payment paid by Customer for that portion of the order cancelled by SIONYX.
- 7. Shipment, Risk of Loss and Packing.** SIONYX shall deliver all Goods purchased by Customer to Customer or its designee (or a combination of both) under the Incoterm identified in the field labeled "Shipment" set forth earlier in this quotation. Title and risk of loss to the Goods passes to Customer upon delivery to Customer's (or its designee's) specified carrier for shipment. The date of the bill of lading or other receipt issued by such carrier is conclusive proof of the delivery date and shipment of the Goods. SIONYX shall package the Goods in accordance with its usual and customary practices.
- 8. Confidential Information.** SIONYX and Customer agree to maintain all confidential information disclosed under the Terms (including the terms and conditions) in accordance with the applicable confidentiality agreement signed between the parties. If and only if no such agreement is in place, SIONYX and Customer shall comply with the remainder of this section. Each party shall hold in strict confidence the information it receives from the other party that is labeled confidential or with a similar legend or that is identified as confidential at the time of disclosure ("**Confidential Information**"). Each party shall not make any use of the other party's Confidential Information except as to perform as required under these Terms or an Agreement. Each party shall protect the other party's Confidential Information with at least the same degree of care it uses to protect its own information and materials of like importance, but in no event less than a reasonable standard of care. Neither party shall disclose nor permit any third party access to the other party's Confidential Information without the disclosing party's prior written consent. Each party retains ownership of any Confidential Information it discloses under the Terms. Upon the request of a party disclosing Confidential Information, the party receiving that information shall promptly return it to the disclosing party. Nothing in the Terms prevents either party from independently pursuing or engaging others to pursue the same or similar business opportunities or technology use or development as long as such activities do not violate the Terms. The Customer shall not reverse engineer any Confidential Information or Products provided by SiOnyx.
- 9. Default.** If Customer is delinquent in payment of any invoice, or is otherwise in breach of the Terms, SIONYX may, at its discretion, do one or both of the following: (i) withhold whole or partial shipment of any order, and (ii) require Customer to prepay for future shipments. SIONYX may suspend performance

Terms and Conditions of Sale

- on any order or require payment in cash, security, or other assurance satisfactory to SIONYX when, in SIONYX's opinion, Customer's financial condition or other grounds for insecurity warrant such action.
- 10. Termination.** (a) If Customer ceases to conduct its operation in the normal course of business (including inability to meet its obligations as they mature) or if any proceeding under any bankruptcy or insolvency laws is brought against Customer, or a receiver for Customer is appointed or applied for, or Customer makes an assignment for the benefit of creditors, SIONYX may terminate one or more Agreement, all or any portion of the orders submitted by Customer, or any combination of the foregoing without liability. (b) Unless in accordance with SIONYX's then current policies, Customer shall not cancel or delay all or any portion of its order(s) without SIONYX's prior written consent. (c) The following sections along with all definitions set out in these Terms survive any termination or expiration of the Terms or any Agreement: 4, 5, 9, and 10 - 20.
 - 11. Warranty.** SiOnyx represents and warrants to Customer that each Product shall be free from defects in workmanship and materials for a period of twelve (12) months from shipment to Customer. This Product warranty will not apply to any Product that has been abused, damaged, altered or misused or is defective as a result of causes external to the Product and not caused by SiOnyx. Further, this Product Warranty does not apply to Beta Prototype(s) which are provided "AS IS". SiOnyx warrants that the Product conforms to the data sheet specifications by SiOnyx (if applicable). EXCEPT AS SET FORTH ABOVE, SIONYX DISCLAIMS ALL WARRANTIES, EXPRESSED, IMPLIED OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES REGARDING THE ACCURACY, COMPLETENESS, PERFORMANCE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. SIONYX EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
 - 12. Limitation of Liability.**
 - EXCEPT AS PROVIDED IN SUBPART 14(b) BELOW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF PROFITS, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, REGARDLESS OF WHETHER SUCH PARTY HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.
 - THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 14 SHALL NOT APPLY TO: (i) BREACH BY EITHER PARTY OF SECTION 10 ("CONFIDENTIAL INFORMATION"); OR (ii) WILLFUL MISCONDUCT OR GROSS NEGLIGENCE.
 - 13. Nonassignment.** Any assignment by Customer of any interest in an order, or any payment due or to become due under the Terms, or any delegation of Customer's obligations hereunder, without a written consent of SIONYX, is void and unenforceable. Despite anything to the contrary in the Terms, SIONYX may immediately terminate any Agreement, all or any portion of the order(s) submitted by Customer, or any combination of the foregoing if: (1) Customer consolidates or merges with or into another party, whether or not Customer is the surviving entity of such transaction; (2) Customer sells, assigns or otherwise transfers all or substantially all of its assets to another party; or (3) there is a substantial change of Customer's ownership or management which is deemed by SIONYX as affecting the decision-making authority of Customer's management or operations.
 - 14. Force Majeure.** Neither party is responsible for delays or failure in performance under the Terms (other than failure to pay any amounts due and breach of its obligations under Section 10) to the extent that such party was hindered in its performance by any occurrence beyond its reasonable control, including without limitation, act of God, fire, government restraint, civil commotion, power failure, labor dispute, and unavailability or shortages of materials.
 - 15. Severability and Waiver.** If any part of an Agreement is found to be invalid or unenforceable, the remainder of that Agreement continues in effect and will be construed in all respects as if such invalid or unenforceable part were omitted. No provision of any Agreement shall be deemed waived by a party unless such waiver is in writing and signed by a duly authorized representative of that party. A party does not create a continuing waiver or any expectation of nonenforcement or delay by providing a waiver to any default or breach of an Agreement or failing to promptly exercise any right under an Agreement.
 - 16. Governing Law and Disputes.** The Terms and all Agreements are governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, USA, without regard to its conflict of law principles and rules. Any dispute, controversy or claim relating to the Terms or any Agreement shall be solely and finally settled by a court of the Commonwealth of Massachusetts.

17. **Export Laws.** Customer agrees to comply with all export laws and restrictions and regulations of the United States Department of Commerce or other United States or other sovereign agency or authority, and not to export, or allow the export or re-export to any country, or release to a national of a restricted country, of any technical data or any direct product thereof in violation of any such restrictions, laws or regulations, or unless and until all required licenses and authorizations are obtained to the countries specified in the applicable U.S. Export Administration Regulations (or any successor supplement or regulations). Customer confirms that Customer will not sell, export, re-export, or otherwise transfer any SiOnyx Products for use by, for, or in: nuclear explosive, nuclear reactor, or nuclear fuel activities; rocket systems including missiles, ballistic missile systems, space launch vehicles or unmanned air vehicles including cruise missile systems, target drones and reconnaissance drones; chemical and/or biological weapons; maritime nuclear propulsion; weapons of mass destruction or sold to persons involved in weapons of mass destruction; foreign terrorist organizations; military uses in People's Republic of China, Russia, or Venezuela.

18. **Entire Agreement.** The Terms constitute the entire understanding between the parties with respect to the purchase and sale of the Goods and supersedes and replaces in full all prior or contemporaneous understandings, agreements, discussions, commitments, and negotiations - whether oral or written - regarding the same subject matter. No addition, modification, amendment, or alteration of the Terms is effective unless reduced to writing and signed by both parties.

19. **Miscellaneous.** The captions and headings appearing in this quotation are for reference only and will not be considered in construing the Terms or any Agreement. Any and all rights and remedies of a party conferred under the Terms upon the other party's breach of, or default under, the Terms are cumulative with and not exclusive of any other right or remedy at law, in equity, or conferred by the Terms. A party's exercise of any one right or remedy does not preclude the exercise of any other. SIONYX's failure to make recommendations or give advice to Customer shall not impose any liability upon SIONYX. SIONYX and Customer are not in a partnership, franchise, joint venture, agency, fiduciary, or employment relationship as a result of the Terms or any Agreement.