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GENERAL TERMS AND CONDITIONS
CONTINENTAL USA

Last Updated. 08/20/2020

1. **Definitions.** As used in these General Terms and Conditions:

   a. "Buyer" means the person or entity that placed the Order for Products and/or Services or on whose behalf the Order is placed.

   b. "Order" means a purchase order, countersigned quote, or similar written document signed by both the Buyer and Seller providing for the purchase of Products. Unless otherwise provided, electronic copies of the Order will have the same effect, force, and validity as the written document of the Order and may be reasonably relied upon by the Parties in lieu of the written document.

   c. "Party means the Buyer or Seller.

   d. "Parties" means the Buyer and Seller.

   e. "Products" means the Seller's product(s) identified in the applicable Order.

   f. "Purchase Agreement" means the written agreement between Buyer and Seller for the purchase of Products and/or Services, which shall consist of these General Terms and Conditions; the applicable Order; and any other applicable written document(s) mutually agreed upon and signed by all Parties. Unless otherwise provided, electronic copies of the Purchase Agreement will have the same effect, force and validity as the written document(s) of the Purchase Agreement and may be reasonably relied upon by the Parties in lieu of the written document(s).

   g. "Purchase Price" means the price payable to Seller by Buyer for Products and/or Services provided in an Order.

   h. "Seller" means Tek84 Inc., a Delaware corporation, including any division or subsidiary thereof.

   i. "Services" means the Seller's services identified in the applicable Order.

2. **Agreement; Inconsistent Terms.** Seller and Buyer agree that all purchases for Products and/or Services by Buyer from Seller will be governed by this Purchase Agreement. In the event of a conflict between these General Terms and Conditions and an Order, or in the event no written or formal Order is issued for the applicable Products and/or Services, the terms of these General Terms and Conditions shall control unless otherwise expressly agreed to in writing by Seller and Buyer. Buyer's acceptance of Products and/or Services shall be deemed Buyer's assent to all of the terms of these General Terms and Conditions even if no written or formal Order is issued by Buyer, unless otherwise provided in writing. For the avoidance of doubt, Seller shall not be bound by the provisions of any other document or instrument from Buyer, unless signed by an officer of Seller.

3. **Ordering Procedure.** Each Order shall specify, if applicable: (a) the description and quantity of Products or Services being ordered; (b) requested location for delivery of Products or Services (the "Delivery Location"); (c) the Purchase Price; and (d) the Buyer's mailing address to which the applicable invoice shall be rendered for payment.

4. **Receipt and Acceptance of Order by Seller.** Seller's corporate office in Poway, California will have the final authority with respect to the acceptance of any Order. If an Order is accepted, Seller shall confirm its acceptance of such Order to Buyer in writing. No Order shall be deemed accepted by Seller until Seller has accepted such Order in writing

5. **No Termination or Delay by Buyer.** After an Order has been duly signed by all of the Parties, Buyer may not terminate or unreasonably delay any delivery of Products and/or Services provided for in said Order without Seller's written consent.

6. **Shipment; Passage of Title; Risk of Loss.** Unless otherwise provided in writing on an Order: (I) For an Order that indicates shipping will be included in the Purchase Price, Products will be shipped Delivered at Place (OAP), with Passage of Title and Risk of Loss passing from Seller to Buyer upon delivery of Products at the Buyer's place in accordance to Incoterms 2020; (2) Otherwise, Products will be delivered EXW Factory in accordance to Incoterms 2020. In any event, Seller shall not be responsible for shipping and transportation delays.

7. **Return of Products.** Products may not be returned by Buyer without Seller's prior written permission.

8. **Payment Terms.** Buyer shall pay the Purchase Price for Products and/or Services purchased hereunder as specified in Seller's invoice, which shall be consistent with the relevant Order. Seller will invoice Buyer for Products upon departure from the Sellers's manufacturing location. Unless otherwise set forth in Seller's invoice, Buyer shall pay the invoice in full in each case no later than thirty (30) days from the date of invoice. All payments will be made in U.S. dollars. Interest at the rate of one and one- half percent (1.5%) per month or the maximum rate allowed by applicable law, whichever is lower, may be charged on past due Buyer accounts commencing after the last day of the first calendar month following the date of such invoice. Seller may suspend, credit, refuse shipment, or cancel any unfilled Order without any liability to Buyer in the event that Seller believes Buyer's credit is impaired. Seller may require full or partial payment or payment guarantee in advance of shipment whenever, in its opinion, the financial condition of Buyer so warrants.

9. **Taxes.** Unless otherwise provided for in an Order, prices do not include taxes. Buyer shall pay Seller, in addition to the price of any Products and/or Services purchased hereunder, any applicable excise, sales, use or other tax (however designated) imposed upon the sale, production, delivery or use of Products and/or Services ordered to the extent required or not forbidden by law to be collected by Seller from Buyer, whether or not so collected at the time of the sale, unless valid exemption certificates acceptable to the taxing authorities are furnished to Seller before the date of invoice.

10. **Registrations; Permits; Licenses.** Buyer shall obtain and maintain all registrations, licenses, permits and approvals required to operate Products in accordance with ANSI/HPS N43-I7-2009 and all Local, State and Federal regulations. Seller agrees to assist Buyer in managing these regulatory requirements.

11. **Institutional Protocols Completed Before Operator Training.** Seller will not be obligated to schedule training classes on using Products until Buyer completes all institutional protocols, procedures, and approvals required for such use.

12. **Security Interest.** Buyer hereby grants to Seller a security interest in Products, including insurance proceeds, to secure payment of all amounts due under the Purchase Agreement until such amounts are paid by Buyer in full.

13. **Warranty and Support.**

    a. **Initial Warranty and Support.** Unless otherwise provided in the Purchase Agreement, Initial Warranty and Support is included in the Purchase Price. Seller will provide Initial Warranty and Support beginning on the installation date and expiring at the date provided on the applicable order or signed quote. If no date is provided, then expiration is one year from installation date.

    b. **Initial Warranty and Support includes:** (i) installation. (ii) initial operator training, (iii) 24-7 technical phone support (iv) on-site repair during normal working hours; (v) replacement parts; (vi) labor expenses; (vii) travel expenses and (viii) annual preventative maintenance inspection including radiation survey.

    c. **Continuing Warranty and Support.** Buyer may purchase Continuing Warranty and Support Services from Seller prior to the expiration of the Initial Warranty and Support.

    d. **Excluded Repairs.** The foregoing Initial and Continuing Warranty and Support shall not apply to any Products or parts of Products which have been (a) repaired or altered by any party other than authorized by Seller, (b) subjected to misuse, negligence, or accident, including, without limitation, physical damage to the outer enclosure, internal damage by physical breaching of the outer enclosure, dropping or overturning the apparatus, damage to the touchscreen monitor, acts of God, such as ea11hquake, flood, building collapse and vermin infestation, damage by unauthorized service personnel, or intentional or other gross damage outside the scope of normal operation, or (c) used in a manner or in an application other than that recommended by Seller.

e. **T&M Priced Services.** For any Products not covered under either Initial or Continuing Warranty and Support, Buyer may purchase such on-going services from Seller under Time and Materials pricing.

f. **Buyer's Right to Reject Products for Noncompliance.** Buyer shall notify Seller in writing within seven (7) calendar days after completion of installation and training of any Products not performing as indicated in Seller's brochures or other advertising materials. Buyer's notice shall provide specific details and examples of cited discrepancies. Upon such writ1en notice, Seller shall attempt to rectify the cited discrepancies to the satisfaction of the Buyer within thirty (30) calendar days. Within seven (7) calendar days afterward, Buyer, acting in good faith, may reject the Products for noncompliance by notifying Seller in writing. Upon such notice of noncompliance: Seller will promptly remove said Products from Buyer's facility; assume Title and Risk of Loss to said Products upon departure from said Buyer's facility; cancel the applicable Order and all obligation for Buyer to pay the Purchase Price; and invoice Buyer for actual shipment cost incurred by Seller to install and de-install the Products. Buyer agrees to pay the shipment cost invoice to Seller within 30 days, thereby terminating any and all obligation of the Parties with respect to the other in conjunction with the Order.

g. **Buyer's Limited Remedy for Warranty Breach.** Except as provided herein for warranty and support, Seller hereby expressly disclaims any implied warranties of merchantability and/or fitness for a particular purpose. Seller makes no other warranties, express or implied. Unless provided herein, Buyer's sole and exclusive remedy for Sellers's breach of the Warranties describe in this section shall be limited to (A) with respect to Products, repair or replacement of defective Products or Product parts reported to Seller within thirty days of Seller's delivery, and/or (B) with respect to Services, correction of any defects in Services provided by Seller and reported to Seller within sixty (60) days after completion of such service.

14. **Limitation of Liability; Commencement of Actions.** Notwithstanding anything to the contrary stated in the Purchase Agreement, in no event shall Seller or its subcontractors be liable for any loss, damage, cost of repairs, or incidental, indirect, punitive or consequential damages of any kind, even if Seller has been advised of the possibility of such damages, including, but not limited to, loss of use of facilities and equipment or loss of profit, for any reason, whether based upon any warranty, or whether arising in contract, tort, negligence or strict liability or otherwise arising in connection with the design, manufacture, sale, use or repair of products and/or services sold hereunder, nor shall Seller or its subcontractors be liable to indemnify Buyer and/or its subcontractors for any claims for any such consequential, incidental, indirect, or punitive damages. Further, in no event will Seller's liability to Buyer exceed the Purchase Price for the specific Products and/or Services giving rise to Buyer's action. Any action, regardless of form, arising out of the Purchase Agreement must be commenced by Buyer within one (I) year after the cause of action has accrued, or two (2) years from the date of shipment or completion of Services, whichever expires first.

15. **Waiver of Claim from Criminal or Terrorist Acts.** Seller's Products and Services are generally directed at the prevention of criminal and terrorist acts by third parties. Buyer acknowledges and agrees that all such acts cannot be prevented by using Seller's Products and Services. Seller and Buyer each agree to waive all claims against the other, including officers, employees, and other representatives, resulting from or related to criminal or terrorist activity

16. **Buyer's Indemnification Obligations.** Buyer acknowledges that Buyer is solely responsible for use of Products and that no aspect of Buyer's use of Products is at the direction of Seller. Buyer will indemnify, defend and hold Seller and its officers, agents, directors, and employees (each an "indemnified party") harmless against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of any kind, including, without limitation, reasonable attorneys' fees, that are awarded against any indemnified party, arising out of or related to any third-party claim made in connection with Buyer's use of Products.

17. **Default; Remedies; Termination.** It shall be an event of default ("Default") if any of the Parties shall:

(a) fail or refuse to pay when due any monies payable under the terms of the Purchase Agreement and continue such failure or refusal for ten (10) days after the payment due date; or (b) fail or refuse to comply with any other term, provision or covenant contained in the Purchase Agreement and such failure shall not be cured within thirty (30) days after written notice is provided by the non-defaulting party (to the extent such failure or refusal shall be curable); or (c) (i) make an assignment for the benefit of creditors, (ii) tile a petition under any applicable law or statute relating to the bankruptcy or insolvency or be adjudged as bankrupt or insolvent in proceedings filed against it under any such law, or (iii) suffer the appointment of a receiver or trustee for all or substantially all of its assets, except an involuntary appointment removed within sixty (60) days after appointment. Upon the occurrence of a Default, the non-defaulting party shall have, in addition to any other rights or remedies available to the non-defaulting party pursuant to the terms of the Purchase Agreement, the

right to terminate the Purchase Agreement upon giving written notice of such termination to the defaulting party, which shall be effective immediately upon delivery to the defaulting party. Upon expiration or termination of the Purchase Agreement for any reason, the parties shall abide by and uphold any rights or obligations accrued or existing under the Purchase Agreement on the date of such expiration or termination. The parties agree to continue to cooperate with each other in good faith to carry out an orderly conclusion of their relationship.

18. **Force Majeure**. In the event either party is prevented by Force Majeure from performing any of its obligations under the Purchase Agreement, other than its payment obligations hereunder, such party shall give notice in writing to the other party with full particulars of such Force Majeure as soon as practicable after the occurrence of the Force Majeure event.

    Neither Party shall be liable to the other for the failure of performance of any obligation under this Agreement, except as specifically set forth herein, if the failure of performance of said obligation is undisputedly related to a Force Majeure Event as hereinafter defined. The affected Party shall inform the other Party in writing immediately upon the occurrence of, or immediately upon becoming aware of the occurrence of, such a Force Majeure event. Without prejudice to the generality of the foregoing, the following events shall for purposes of this Agreement be considered within the meaning of the term "Force Majeure Event": acts of God, acts of nature, acts of Governments in their sovereign capacity, acts of terrorism, war and/or war measures, tire, floods, casualties, strikes, pandemics (other than COVID-19), labor disturbances, shortage of natural materials or fuel, or any other unforeseen, impacting events which are beyond the reasonable control of the affected Party.

    It is understood and agreed between the Parties hereto that the rights and obligations of the Parties shall be deemed to be in suspension during the continuance of the Force Majeure Event, as aforesaid, and the said rights and obligations shall automatically revive upon the cessation of the intervening Force Majeure Event.

    If for any reason any licenses, authorizations or approvals are denied or revoked, or if there is a change in any such applicable laws, regulations, or requirements that would prohibit Seller from fulfilling the Purchase Agreement, or would in the reasonable judgment of Seller otherwise expose Seller to a risk of liability under applicable laws, regulations, orders or requirements, Seller shall be relieved without liability of all obligations under the Purchase Agreement. Failure by Seller to deliver any one or more of the installments in accordance with their terms shall not entitle Buyer to terminate the whole Purchase Agreement or treat it as repudiated.

    The period for which the rights and obligations of the Parties shall be in suspension due to occurrence of a Force Majeure Event shall not be considered as a delay with respect to the period of delivery and/or acceptance of delivery under a contract or otherwise to the detriment of either Party.

19. **Seller's Intellectual Property Rights; Confidentiality.** All design and detail drawings, data, material lists, tooling, equipment, procedures, engineering changes, inventions, trade secrets, copyrights, mask works, source code, object code, patents, patent applications, know-how, computer and/or product software and all parts thereof, trademarks and all other information, technical or otherwise, which was developed, made or supplied by or for Seller in the production of Products and/or Services sold hereunder will be and will remain the sole and exclusive property of Seller (or its licensors, if any). Buyer agrees not to reverse engineer any Products and/or Services purchased hereunder.

    Buyer agrees to treat all information, including, without limitation, all proprietary information, provided by Seller hereunder as confidential ("Confidential lnfom1ation") and shall not make use of Confidential Information for purposes other than those contemplated by the Purchase Agreement, and shall not make Confidential Information available to third parties other than as required to carry out the installation and use of Products and/or Services.

20. **Export Regulations.** Buyer agrees to comply fully with all laws and regulations concerning the export of any Products from the United States.

21. **Entirety or Purchase Agreement; Amendment.** The Purchase Agreement, including these General Terms and Conditions and any applicable document signed by all of the Parties, embody the entire agreement between the parties regarding the subject matter hereof and supersedes any other agreements and arrangements, whether in written oral form, regarding the subject matter hereof. Except as otherwise provided in the Purchase Agreement, the Purchase Agreement may not be amended, extended or supplemented in any manner whatsoever except by the express written agreement executed by duly authorized corporate officers of both pa,1ies.

22. **Notices.** Any notice, agreement, or other communication required to be given under the Purchase Agreement shall be in

writing and either personally delivered, delivered by certified U.S. mail (return receipt requested), postage prepaid, or delivered by overnight delivery by a nationally recognized courier, addressed to the Parties at their addresses indicated in the Purchase Agreement or to such other addresses as maybe furnished in writing by either party to the other. Each notice or communication shall be deemed to have been received three (3) business days after the same was deposited in certified mail, or, if delivered in person via an internationally recognized overnight delivery carrier, as of the date so delivered. notwithstanding the foregoing, Orders and other ordinary course of business communications may be sent by email or mail to the address identified by the parties from time to time, or by first class mail, postage prepaid.

23. **Severability.** In the event that one or more of the provisions of the Purchase Agreement is declared or held invalid, illegal or unenforceable by a court of competent jurisdiction, such provision(s) shall be interpreted as modified so as to be enforceable to the maximum extent permitted by law, and all other provisions hereof shall be given effect separately therefrom and shall not be affected thereby.

24. **No Waiver.** No waiver by either Party of any provision of the Purchase Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

25. **Authority.** Each Party represents and warrants that (a) it is duly organized, validly existing and in good standing under the laws of the state of its organization, and has full power and authority to enter into and perform its obligations under the Purchase Agreement, (b) it agrees to be bound by the Purchase Agreement, and (c) the person executing the Purchase Agreement on behalf of such Party has been properly authorized and empowered to enter into the Purchase Agreement.

26. **Headings not Controlling.** The headings used in the Purchase Agreement are for reference purposes only and shall not be deemed part of the Purchase Agreement.

27. **Successors and Assigns.** The Purchase Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. The Purchase Agreement is not assignable by either Party without the prior written consent of the other Party hereto, which shall not be unreasonably withheld, except that Seller may assign the Purchase Agreement to any person or entity (a) that is a parent, subsidiary or affiliate of Seller, (b) that acquires a controlling interest in the stock of Seller, (c) with which Seller merges or consolidates, or (d) to which Seller transfers all or substantially all of its assets.

28. **Attorney Consultation.** Each Party represents that it has had an opportunity to consult with independent legal counsel prior to signing the Purchase Agreement.

29. **Counterparts.** The Purchase Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

    Electronic signature pages shall be deemed as sufficient evidence of a party's consent and agreement to the terms of the Purchase Agreement.

30. **No Partnership or Joint Venture Created.** Seller is an independent contractor to Buyer. The Purchase Agreement does not create a partnership, joint venture, or any form of association, for employment, tax purposes or otherwise.

31. **Choice of Law; Arbitration.** The Purchase Agreement shall be governed by the laws of the state of California. The Parties agree that all disputes and/or causes of action under the Purchase Agreement shall be resolved by binding arbitration by a single arbitrator from the San Diego office of the American Arbitration Association ("AAA") in accordance with the AAA 's rules of Arbitration.

32. **U.N. Convention.** Pursuant to Article 6 of the United Nations Convention on Contracts for the International Sale of Goods (the "UN Convention"), the parties agree that the UN Convention shall not apply to the Purchase Agreement.