

This Sales Product and Service Agreement ("Agreement") is entered into by and between Techmode ("Company") and purchaser listed on sales, maintenance or work order ("Customer").

#### 1. SALE OF EQUIPMENT AND OTHER SERVICES.

Customer hereby agrees to purchase from Company the equipment and services set forth in the Order Summary. This Agreement covers products and services for use only in the United States in the ordinary course of Client's business and not for the purpose of resale by client. If applicable this agreement may also consist of one or more of the following documents; Order Summary, Scope of Work; Software License Agreement; Agency Agreement. Techmode's acceptance of Client's order is subject to credit approval and Client's remittance of initial payment as set forth in section 6.

#### 2. CHANGES.

Client may, with the approval of the Company, issue written directions within the general scope of any Services to be ordered. Such changes (the "Change Order") may be for additional work or the Company may be directed to change the direction of the work covered by the Task Order, but no change will be allowed unless agreed to by the Company in writing. The price of add-ons will be Techmode's then current price published price applicable to all customers.

#### 3. CLIENT RESPONSIBILITIES.

Client's failure to perform its responsibilities on the dates specified in the scope of work may result in a delay of the order, or may result in an increase in the prices stated on the order summary form or the scope of work. If Client requests a delay in the delivery date or in-service date, Techmode at its option may (1) delay the delivery date or in-service date; (2) deliver the product and invoice client for the purchase price and or license fee plus any applicable charges for services performed, in which case installation will be rescheduled at a mutually agreeable time; or (3) cancel the order and bill client for cancellation charges as set forth in Section 4. In addition to client responsibilities set forth elsewhere in this agreement, client is responsible for notifying Techmode of the presence of any hazardous material on client's premises prior to the commencement of any services. Services will be delayed without any penalty to Techmode until client removes or corrects any hazardous conditions.

#### 4. CANCELLATION/TERMINATION.

If client cancels the whole or a substantial portion of an order for products prior to the delivery date said client is subject to a cancellation charge of 100% of the purchase price/ license fee for the canceled products plus the pro-rated cost for any services performed up to the date of cancellation. Client may return a portion of the products after the delivery date but prior to the installation if the container has not been opened and can be returned to the manufacturer for a refund. The client would then be charged a 25% restocking fee plus the prorated costs for any services performed and all incurred shipping charges. If client cancels the whole or a substantial portion of an order for products after the

container is opened or installation has begun, client will be subject to a cancellation fee equal to 100% of the purchase price/license fee for the cancelled products plus the pro-rated cost for any services performed up to the date of cancellation. Client may cancel an order for services subject to payment of a cancellation charge equal to 50% of the total charges for the entire term of the order, or the total charges remaining as of the date of cancellation, whichever is less.

#### 5. STANDARD OF CARE.

The Company warrants that its services shall be performed by personnel possessing competency consistent with applicable industry standards. No other representation, express or implied, and no warranty or guarantee are included or intended in this Agreement, or in any report, opinion, deliverable, work product, document or otherwise. Furthermore, no guarantee is made as to the efficacy or value of any services performed or software developed. THIS SECTION SETS FORTH THE ONLY WARRANTIES PROVIDED BY THE COMPANY CONCERNING THE SERVICES AND RELATED WORK PRODUCT. THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR OTHERWISE.

#### 6. PRICE.

The price and time for payment for the Equipment and Services is as follows: Price When Due 50% Contract Signing 25% Material on Job 25% Project Completion Form 11-4 2 Any amounts payable by Customer hereunder which remain unpaid after the due date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

#### 7. DELIVERY.

Company shall use its reasonable efforts to deliver the Equipment to Customer on the delivery date set forth in Section 2. Delivery shall be made F.O.B. at Company's offices in Auburn Hills, Mi. If the delivery is not made within 60 days of the scheduled delivery date, other than because of the fault of Customer or by force majeure (as set forth in Section 15(l)), Customer may cancel its purchase of the Equipment. All transportation, shipping and handling charges shall be paid by Customer. Customer bears all risk of loss or damage to the Equipment after delivery to the transportation shipping point.

#### 8. SUBCONTRACTING.

Techmode may subcontract all or part of the services to be performed under this agreement, but will retain responsibility for the work to the extent of the warranties provided.

#### 9. OPERATION OF THE EQUIPMENT.

Customer shall be responsible for operation of the Equipment. Customer shall operate the Equipment in a reasonably competent manner and in compliance with the operations manual for the Equipment. Customer shall comply with all applicable rules, laws, and regulations in connection with operation of the Equipment. Techmode will not be responsible for equipment failures to do (1) abuse or misuse of products; (2) Client's failure to follow the manufacturer's installation, operation or maintenance instructions; (3) failure of network carriers or transmission errors experienced over internet or other facilities.

#### 10. TERMS OF USE/ LICENSE AGREEMENT

By entering into this agreement either through signature or purchase with Techmode you agree to abide by all manufacturers standard of use agreements and any applicable licensing or software terms. Customer is responsible for downloading all licensing agreements from the manufacturer for licensing or software sold through Techmode. Links for some of the most popular can be found below

Avaya <https://downloads.avaya.com/css/P8/documents/100072471>

<http://downloads.avaya.com/css/viewEULA>

3CX <https://www.3cx.com/company/terms-and-conditions/>

Cisco [https://www.cisco.com/c/en/us/about/legal/cloud-andsoftware/end\\_user\\_license\\_agreement.html](https://www.cisco.com/c/en/us/about/legal/cloud-andsoftware/end_user_license_agreement.html)

Opentext <https://www.opentext.com/about/copyright-information/opentext-agreement-templatesand-schedules/easylink-master-terms-conditions>

Grandstream <http://www.grandstream.com/company/grandstream-warranty-policy> Spectralink  
<https://support.spectralink.com/terms-and-conditions>

#### 11. NONSOLICITATION OF EMPLOYEES.

During and for one (1) year after the term of this Agreement, Client will not solicit the employment of, or employ the Company's personnel, without the Company's prior written consent.

#### 12. INFRINGEMENT INDEMNITY.

Company will defend and indemnify Customer against a claim that the Equipment infringes a United States copyright or patent, provided that: (a) Customer notifies Company in writing within 30 days of the claim; (b) Company has sole control of the defense and all related settlement negotiations; and (c) Customer provides Company with the assistance, information and authority necessary to perform Company's obligations under this Section. Reasonable out-of-pocket expenses incurred by Customer in providing such assistance will be reimbursed by Company. Company shall have no liability for any claim of infringement based on use of Equipment altered by Customer. In the event the Equipment is held or

is believed by Company to infringe, Company shall have the option, at its expense, to (a) modify the Equipment to be noninfringing; (b) obtain for Customer a license to continue using the Equipment; or (c) refund the fees paid for the Equipment. This Section 5 states Company's entire liability and Customer's exclusive remedy for infringement, misappropriation or related claims.

### 13. DISCLAIMERS AND WARRANTY.

(a) Company warrants to the original purchaser of Equipment that for the Warranty Period (as defined below), the Equipment will be free from material defects in materials and workmanship. The foregoing warranty is subject to the proper installation, operation and maintenance of the Equipment in accordance with installation instructions and the operating manual supplied to Customer. Warranty claims must be made by Customer in writing within sixty (60) days of the manifestation of a problem. Company's sole obligation under the foregoing warranty is, at Company's option, to repair, replace or correct any such defect that was present at the time of delivery, or to remove the Equipment and to refund the purchase price to Customer. (b) The "Warranty Period" begins on the date the Equipment is delivered and continues for 6 months on labor and 12 months for all parts. (c) Any repairs under this warranty must be conducted by an authorized Company service representative. (d) Excluded from the warranty are problems due to accidents, misuse, misapplication, storage damage, negligence, or modification to the Equipment or its components. (e) Company does not authorize any person or party to assume or create for it any other obligation or liability in connection with the Equipment except as set forth herein. (f) THE INDEMNITY IN SECTION 11 AND WARRANTY IN SECTION 12(a) ABOVE IS EXCLUSIVE AND IN LIEU OF ALL OTHER INDEMNITIES OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

### 14. NONDISCLOSURE.

By virtue of this Agreement, Customer may have access to information that is confidential to Company ("Confidential Information"). Confidential Information shall include, but not be limited to, the terms and pricing under this Agreement, the technical and other specifications for the Equipment and all information clearly identified as confidential. Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of Customer; (b) was in the Customer's lawful possession prior to the disclosure and had not been obtained by Customer either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the Customer by a third party without restriction on disclosure; or (d) is independently developed by Customer. Customer agrees to hold Confidential Information Form 11-4 3 in confidence during the term of this Agreement and for a period of five years after termination of this Agreement. Customer agrees that unless required by law, it shall not make Confidential Information available in any form to any third party or to use Confidential Information for any purpose other than the implementation of this Agreement. Customer agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees, representatives or agents in violation of the terms of this Agreement.

### 15. LIMITATION OF LIABILITY.

IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, OR USE INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, OR TORT, OR OTHERWISE EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. COMPANY'S LIABILITY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE DEFECTIVE EQUIPMENT. THE PROVISIONS OF THIS AGREEMENT ALLOCATE THE RISKS BETWEEN COMPANY AND CUSTOMER. COMPANY'S PRICING REFLECTS THIS ALLOCATION OF RISK AND BUT FOR THIS ALLOCATION AND LIMITATION OF LIABILITY, COMPANY WOULD NOT HAVE ENTERED INTO THIS AGREEMENT.

#### 16. DISPUTES.

The Company and Client recognize that disputes arising under this Agreement are best resolved at the working level by the parties directly involved. Both parties are encouraged to be imaginative in designing mechanism and procedures to resolve disputes at this level. Such efforts shall include the referral of any remaining issues in dispute to higher authority within each participating party's organization for resolution. Failing resolution of conflicts at the organizational level, the Company and Client agree that any remaining conflicts arising out of or relating to this Contract shall be submitted to nonbinding mediation unless the Company and Client mutually agree otherwise. If the dispute is not resolved through non-binding mediation, then the parties may take other appropriate action subject to the other terms of this Agreement.

#### 17. COOPERATION.

Client will cooperate with the Company in taking actions and executing documents, as appropriate, to achieve the objectives of this Agreement. Client agrees that the Company's performance is dependent on Client's timely and effective cooperation with the Company. Accordingly, Client acknowledges that any delay by Client may result in the Company being released from an obligation or scheduled deadline or in Client having to pay extra fees for the Company's agreement to meet a specific obligation or deadline despite the delay.

#### 18. MISCELLANEOUS.

(a) This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by the laws of the State of Michigan (exclusive of conflict of laws principles). (b) Any legal action or proceeding relating to this Agreement shall be instituted solely in a state or federal court in Michigan. Company and Customer agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding. (c) All notices, including notices of address change, required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by first class mail or by fax to the address listed below. (d) Prices for Equipment specified herein are exclusive of all city, state and federal taxes, including, without limitation, taxes on manufacture, sales, receipts, gross income, occupation, use and similar taxes. Customer agrees to pay such taxes directly or to reimburse Company

for all such taxes, whether imposed on Customer required to be collected by Company, or imposed on Equipment or on Customer in connection with this sale. Wherever applicable, such tax or taxes shall be added to the invoice as a separate charge on invoiced separately. Customer agrees to pay all personal property taxes that may be levied against Equipment after the date of delivery. (e) To secure payment and performance of all Customers' obligations hereunder, Company hereby retains title to Equipment and a security interest therein until payment in full and performance by Customer of all said obligations. When requested by Company, Customer shall duly acknowledge this Agreement, and execute, acknowledge and deliver to Customer, in Company's usual form, a supplement hereto, security agreement, financing statement and other appropriate instruments to constitute Equipment as the unencumbered security for the obligations of Customer hereunder, or to enable Company to comply with all applicable filing or recording laws. (f) In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Techmode Products and Services Agreement will remain in full force. (g) The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. Except for actions for nonpayment or breach of Company's proprietary rights, no action, regardless of form, arising out of or in connection with this Agreement may be brought by either party more than one year after the cause of action has accrued. (h) Customer agrees to comply fully with all relevant export laws and regulations of the United States ("Export Laws") to assure that the Equipment is not (1) exported, directly or indirectly, in violation of Export Laws; or (2) intended to be used for any purposes prohibited by the Export Laws. Customer agrees that the Equipment will only be used or operated in the United States and other territories approved in writing by Company. (i) Company is an independent contractor; nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the parties. (j) This Agreement constitutes the complete agreement between the parties with respect to its subject matter and supersedes Form 11-4 4 all prior or contemporaneous agreements, understandings, representations, discussions, proposals, literature, and the like, written or oral.

This Techmode Products and Services Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement. It is expressly agreed that the terms of this Agreement shall supersede the terms in any Customer purchase order or other ordering document, if any.

Please contact us with any questions regarding the Techmode Product & Service Agreement.