

Standard Terms and Conditions Performedge Inc.

Terms and Conditions. The terms and conditions set forth here shall apply to any and all services to be performed by Performedge Inc. (“Performedge”) and comprise all of the terms and conditions between Performedge and its Customer. No other or different terms and conditions shall be applicable unless another document is signed by an authorized representative of Performedge.

Offer and Acceptance. The Performedge quotation shall be construed as an offer to provide services using the terms and conditions set forth here and shall be subject to withdrawal at any time prior to the acceptance by the Customer.

Prices. The prices presented in a formal quote obtained directly from Performedge are firm for 60 days. Prices presented in pre-printed pricing sheets and order forms should be verified with Performedge to ensure they are accurate and up-to-date. The performedge.com web site can be used to verify the most recent prices. All clerical errors in Performedge prices are subject to correction.

Taxes and Fees. Any and all taxes or fees imposed by any federal, state, municipal or other government authority with respect to this transaction, and any and all duties or tariffs shall be added to the price and paid by the Customer. In the event that Performedge pays such taxes, fees, duties, etc., the Customer will reimburse Performedge.

Terms of Payment. The Customer shall pay Performedge no later than “net 30 days” after the invoice date as shown on the invoice for the corresponding transaction.

Delivery of Material to Performedge, Shipment by Performedge, and Packaging. The Customer is responsible for the shipping charges to and from the Performedge facility. Packaging for shipment to Performedge: Proper packaging of all the materials shipped to Performedge is the responsibility of the Customer. Performedge will not be liable for any in-transit damage caused by improper packaging. Performedge will promptly inform the Customer of any damage we believe to be caused by improper packaging or damage incurred during shipment. Packaging for the return shipment to the Customer: The cost of normal shipping and packaging material is included in the shipping and handling fee assessed to each shipment. The selection and use of certain packaging materials is at the sole discretion of Performedge. Should the Customer request any special packaging or shipping methods, any additional costs will be added to the price. The Customer shall be responsible for the risk of loss while the material is being transported to or from Performedge.

Time of Delivery; Installments. All dates for the completion of work by Performedge are approximate and time shall not be considered of the essence. Performedge shall not be considered liable for any delays or default by reason of any occurrences beyond its control, including without limitation fire, flood, embargo, strike, failure to obtain materials or labor from the usual sources, government restrictions considered “force majeure” or any circumstance beyond Performedge’s control. Performedge reserves the right to make deliveries in installments and all such installments could be separately invoiced. Each invoice is due according to invoice date without regard to subsequent deliveries.

Termination. If the Customer for any reason terminates this agreement in whole or in part, the notice of termination must be in writing to Performedge. Performedge will cease all work and hold for the Customer all materials, completed in full or in part. The Customer shall pay Performedge an amount equal to the percentage of the price that is equal to the percentage of the work completed, plus actual expenditures made by Performedge in connection with the uncompleted portion of the work, plus all cancellation charges paid by Performedge for commitments made with respect to this order.

Inspection by the Customer, Limitation of Liability, Warranty. The Customer acknowledges that they will inspect the materials immediately upon receipt from Performedge and will notify Performedge within 10 business days of the delivery and in any event, prior to the use of such materials of any alleged damage, shortage, or deficit in quality. Failure by the Customer to make any claim within the 10 day period will constitute the acceptance of the materials and a waiver of all such claims. Approval to return items with suspected damage or quality concerns should be obtained prior to return shipment to Performedge. The maximum liability for any and all claims against Performedge shall not exceed the price the Customer has paid to Performedge in relation to this particular transaction. Under no circumstances shall Performedge be liable to the Customer or any third party for the loss of business or profit or any economic loss, or any incidental, special, indirect, or consequential damages. Performedge agrees to recondition the specific materials sent to the Customer if it is determined that the reconditioning performed on those specific items is defective in accordance with predetermined specifications. This warranty is in lieu of any other warranties, whether expressed or implied.

Indemnification. The Customer will indemnify and hold Performedge harmless, from and against any and all actions, claims, demands, losses, damages, or otherwise arising out of or in any way connected with the use of the materials which are the subject of this agreement.

Additional Provisions. In the sole opinion of Performedge, we may require cash payment or the equivalent prior to the shipment of materials. Until a Customer makes full payment on the invoiced items, Performedge will retain a security interest in the materials. Performedge may at its option file evidence of such security interest pursuant to the Uniform Commercial Code. The Customer and Performedge mutually agree that the agreement growing out of this transaction, regardless of the place of the physical execution, shall be treated as though executed within the State of South Carolina and shall be interpreted within the laws and statutes of the State of South Carolina. This agreement shall be binding upon the representative, successors, and assigns of the parties mentioned herein.