

## Serialio Terms and Conditions of Sale

**1. General.** The following terms and conditions (“Terms”) apply to all quotations, purchase orders, order acknowledgements, offers, and invoices issued or received by Serialio, Inc. (“Seller”) to or from buyer (“Buyer”) for the sale of any products or services by Seller. Seller’s acceptance of any Buyer purchase order or other communication is expressly conditioned upon Buyer’s acceptance of these Terms. Any additional or different terms or conditions in any communication by Buyer (including in a purchase order) are hereby rejected and will be null and void, irrespective of the means of Buyer’s acceptance (whether by a written acknowledgement, by implication, or acceptance and payment for products or services), unless such terms are specifically agreed to in writing and signed by an authorized representative of both Buyer and Seller. Seller’s failure to object to any additional or different terms or conditions proposed by Buyer will not constitute a waiver of these Terms nor constitute acceptance of Buyer’s terms and conditions. These Terms will apply whether or not they are attached to a Seller quotation, order acknowledgement, offer of sale, or invoice for a product or service or enclosed with a product. These Terms will apply in lieu of any course of dealing between the parties and any course of performance or usage of trade in the industry. The purchase of products or services in no way implies any future business relationship between Seller and Buyer beyond the terms set forth in these Terms and Seller is not obligated to sell additional products or services to Buyer.

**2. Pricing.** Subject to these Terms, all quotations for products or services made by Seller are firm for 30 days from the date of the quotation and quotations will expire 30 days after the date of the quotation without notice to Buyer unless indicated differently on the face of the quotation. Clerical errors in a quotation are subject to correction. All prices are EXW Seller’s point of shipment and are exclusive of shipping, insurance, and installation charges, all of which are Buyer’s sole responsibility. If Seller arranges for the shipment of products to Buyer, such shipments will be subject to an additional handling fee to be paid by Buyer to Seller. Except as otherwise specified in these Terms, Seller’s price in effect at the time a purchase order is accepted by Seller will continue to apply until the entire quantity ordered is released and shipped by Seller. In addition, prices are subject to revision by Seller in its discretion due to engineering changes or changes in quality caused or requested by Buyer. If Buyer fails to take delivery of the quantity of products or services upon which a quantity discount price within the period set forth in Seller’s quotation (but in any case no longer than 12 months of the date of Buyer’s first PO for such products), if any, is based, Buyer will, at the end of the agreed-to period (but in any case within such 12 month period), be back billed an amount based upon the quantity actually delivered and upon the quantity pricing schedule in effect at the time the order was placed. Such charges will be in addition to any cancellation charges.

**3. Taxes.** All prices are exclusive of all present or future sales, revenue, use, excise, value added, turnover, withholding, import (including brokerage fees), and other

taxes, duties, or charges applicable to the manufacture/performance or sale of any product or service (except for taxes on Seller’s net income), all of which will be paid by Buyer. If Seller is required to pay any such tax, duty or charge, Seller will add such taxes to the sales price and Buyer will promptly pay such taxes unless Buyer provides Seller with a duly executed sales tax exemption certificate. If Buyer is required by law to withhold any amount of tax from its payment to Seller, Buyer will pay Seller such additional amount as will cause the net amount of the aggregate payment to Seller, after giving effect to such deduction, to equal the amount of the payment otherwise due to Seller for the products or services sold.

**4. Review and Acceptance of Orders by Seller.** All orders must be approved and accepted by Seller at its home office at 715 Discovery Blvd, Suite 510, Cedar Park, TX 78738, U.S.A. Seller reserves the right to reject any order or to cancel any order previously accepted if Seller determines that Buyer is in breach of these Terms.

**5. Product Cancellation and Rescheduling.** Seller will not accept any Buyer request to cancel or reschedule a product order except by a written request by Buyer to cancel or reschedule a standard generally-available product more than 30 days of Seller’s quoted shipping date for the order. Seller will only accept one rescheduling request per order. Cancellation and rescheduling requests granted by Seller for standard generally-available products that are greater than 30 days but less than 60 days before Seller’s quoted shipping date may be subject to a cancellation or rescheduling charge to be reasonably determined by the Seller based on Seller’s ability to change its production schedule within the requested period and other factors that may result in costs to Seller, including, without limitation, whether Seller acquired or allocated particular supplies or equipment to meet Buyer’s order. Seller will have the right to cancel any unfilled order without notice to Buyer if Buyer becomes insolvent, is adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, or becomes unable to meet its financial obligations in the normal course of business. Any order that can be cancelled or rescheduled by Buyer pursuant to this Section may be cancelled or rescheduled by Seller if notice is given to Buyer.

**6. Product Packaging.** All products will be suitably packed for shipment in Seller’s standard shipping cartons. Packaging for commercial shipment is included in the quoted price. When special or export packaging is specified involving a greater expense than the cost of commercial shipment included in the quoted price, Seller will charge to cover such extra expense. Seller exercises reasonable care in packaging products for shipment and assumes no responsibility for delay, breakage or damage after having made delivery to the carrier. All claims for breakage or damage will be made to the carrier; however, Seller will render reasonable assistance in securing satisfactory adjustment of such claims.

**7. Product Delivery, Title, and Risk of Loss.** All products will be packed as set forth above, marked for shipment and delivered to Buyer or its carrier agent EXW, Seller's point of shipment. Risk of loss and Seller's title will pass to Buyer when Seller delivers the products to the carrier. Carrier will be deemed Buyer's agent, and any claims for damages in shipment must be filed with carrier. Shipments will be made in Seller's discretion unless otherwise specified in writing by Buyer. Buyer must notify Seller of any visible defects, quantity shortages or incorrect product shipments within seven days of receipt of the shipment. Failure to notify Seller in writing within the seven-day period will be deemed an unqualified waiver of any rights to return products on the basis of visible defects, shortages or incorrect shipments, and the products will be conclusively deemed accepted. At that time, Buyer's only recourse or remedy for nonconforming or defective products will be Seller's standard warranty, which is set forth in these terms. No return of products will be accepted by Seller without a Return Material Authorization ("RMA") number, and returned products must be in Seller's original shipping cartons complete with all packing materials or other shipping cartons approved by Seller in advance. Buyer will reimburse Seller for insurance and transportation costs on international shipments and will be responsible for all import duties, taxes, and any other expenses incurred or licenses or clearances required. Delivery dates are estimates based on information available at the time the estimate is made. Delivery dates are approximate and may be delayed absent prompt receipt from Buyer of all necessary information. Seller will not be liable for any losses or expenses incurred by Buyer if Seller fails to meet estimated delivery dates. Seller may deliver products up to seven days earlier than Buyer's requested ship date. Seller may deliver products in multiple shipments according to product availability or otherwise and invoice each installment separately. Delivery of a quantity that varies from the quantity specified in Buyer's order will not relieve Buyer of its obligation to accept delivery and pay for the products ordered. Delays or changes in schedules due to Buyer-directed actions are subject to price adjustments by Seller in its discretion. Seller reserves the right to allocate production and deliveries among its various customers under any circumstances. Buyer grants Seller and its suppliers a security interest in the products in the amount of the unpaid balance of the purchase price until paid in full. Seller and its suppliers may file a financing statement for such security interest, and Buyer will sign any such statements or other documentation necessary to protect Seller's and its suppliers' security interest.

**8. Payment.** Seller will determine payment terms on a per-order basis, and such terms are subject to a credit review by Seller. Seller may change or withdraw credit amounts or payment terms at any time for any reason. If Seller extends credit to Buyer, all payments will be made in U.S. dollars net 30 days from the date of Seller's invoice unless otherwise stated by Seller in writing. Any amounts not paid when due will accrue interest at the rate of 1.5% per month or, if lower, the maximum amount allowed by law. Each accepted product or service order is a separate, independent transaction. Amounts due from Buyer under this Agreement may not be withheld or offset by Buyer against amounts due to Buyer for any reason. If the products are delivered in installments, Buyer will pay for each installment per the payment terms specified in these Terms. If the Buyer fails to

make any payment when due or, if in Seller's judgment Buyer's financial condition does not justify the payment terms specified in these Terms, Seller may suspend or cancel any further delivery to Buyer and terminate this or any other agreement that Seller has made to extend credit to Buyer and may demand payment in cash before delivery of any part of the products or services. Suspension or cancellation of any delivery in accordance with this Section is in addition to, and not in lieu of, Seller's right to pursue other available remedies. Payment will be made for the products or services without regard to whether Buyer has made or will make any inspection of the products or services. If Seller brings legal action to collect delinquent accounts, Buyer will pay all of Seller's costs and expenses related to or arising out of the suit, including reasonable attorneys' fees and costs.

**9. Changes to Product Specifications and Components.** Seller reserves the right to change the specifications of any products (including all statements and data appearing in Seller's catalogs, data sheets and advertisements) without notice. If changes to specifications are made, Seller assumes no obligation to provide the change on products previously purchased or to continue to supply discontinued products. Seller may substitute products manufactured to such modified specifications for those products previously ordered by Buyer so long as such products substantially conform to the products ordered by Buyer. Seller reserves the right to substitute product components of equivalent function and performance without notice to Buyer.

**10. Seller-Provided Software.** Seller's obligations and Buyer's rights to any firmware or software that is embedded or preinstalled on a product or otherwise obtained from Seller in connection with a product, including any updates or upgrades thereto provided by Seller to Buyer, ("Software Product") are set forth in the API Terms of Service Agreement applicable to the Software Product ("AToSA"). If there is a conflict between these Terms and a AToSA, the terms of the AToSA will govern with respect to the Software Product.

If a Software Product is provided without a AToSA, then the following terms will apply to Buyer. Subject to these Terms, Seller grants Buyer a limited, personal, non-exclusive, nontransferable license to use one copy of the Software Product solely in connection with the product with which it is provided. Buyer is prohibited from removing any Software Product that is embedded or preinstalled on a product, and this license will automatically terminate upon breach of this restriction. Except for this license granted to Buyer, Seller retains all right, title and interest in and to each Software Product, including all related intellectual property rights. Applicable intellectual property laws, including United States copyright law and international treaties, protect each Software Product. Except as otherwise explicitly provided in these Terms or as may be expressly permitted by applicable law, Buyer must not, and will not permit or authorize third parties to: (a) reproduce, modify, translate, enhance, decompile, disassemble, reverse engineer or create derivative works of a Software Product; (b) rent, lease, or sublicense a Software Product; nor (c) circumvent or disable any security or technological features or measures of a

Software Product. Any reference to a “sale” or “selling” of Software Products will be deemed to be a “license” to such software products.

Buyer acknowledges that the Software Products may contain or are provided with copyrighted software of Seller’s suppliers as identified in associated documentation or other printed or electronic materials for Software Products (“Third Party Software”) which are obtained under a license from such suppliers. Buyer’s use of any Third-Party Software shall be subject to, and Buyer shall comply with, the applicable restrictions and other terms and conditions set forth in such documentation or materials.

Except for Third Party Software identified by Seller, Buyer may not subject the Software Products, in whole or in part, to any license obligations of Open Source Software including without limitation combining or distributing the Software Products with Open Source Software in a manner that subjects the Software Products or any portion of the Software Products provided by Seller hereunder to any license obligations of such Open Source Software.

“Open Source Software” means any software that requires as a condition of use, modification and/or distribution that such software or other software incorporated into, derived from or distributed with such software: (a) be disclosed or distributed in source code form; or (b) be licensed by the user to third parties for the purpose of making and/or distributing derivative works; or (c) be redistributable at no charge. Open Source Software includes, without limitation, software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models substantially similar to any of the following: (a) GNU’s General Public License (GPL), or Lesser/Library GPL (LGPL), (b) the Artistic License (e.g., PERL), (c) the Mozilla Public License, (d) the Netscape Public License, (e) the Sun Community Source License (SCSL), (f) the Sun Industry Source License (SISL), (g) the Apache Software license and (h) the Common Public License (CPL).

**11. Firmware Updates.** Seller is not obligated to provide firmware updates except as otherwise expressly set forth in this Section. During the period of the limited hardware warranty set forth in Attachment A, Seller offers, without additional charge, access to all applicable Firmware Maintenance Releases (as defined below) released by Seller in its sole discretion from time to time during such period. The date of shipment by Seller is set forth on the packaging material in which the ‘RFID reader’ Reader Product is shipped. “Firmware Maintenance Release” means a set of related or unrelated firmware improvements, bug fixes, and error corrections applicable to a ‘RFID reader’ Reader Product that is designated by Seller as a ‘Firmware Maintenance Release’ for such Reader Product and that is included as part of the standard firmware on all the applicable ‘RFID reader’ Reader Product units, as factory-configured. A Firmware Maintenance Release does not include maintenance of any application software that may reside on a ‘RFID reader’ Reader Product or may be hosted on hardware interfacing to a Reader Product. Seller reserves the right to price and sell any additional firmware functions or improvements as a separate product. Firmware Maintenance Releases shall be deemed included as part of

the applicable firmware Software Product and all access and use of Firmware Maintenance Releases shall be subject to the same license terms as for the applicable firmware as described in Section 10 (“Seller-Provided Software”) above, unless a separate AToSA is provided by Seller with any such Firmware Maintenance Release, in which case, the license terms for the Firmware Maintenance Release shall be under the terms of the separate AToSA. Buyer acknowledges that Firmware Maintenance Releases are authorized to be installed and used only on Reader Products in during the applicable limited hardware warranty period or that are covered by a separately purchased extended warranty contract t as may be offered in Seller’s sole discretion and paid for by Buyer. Installation or use of any Firmware Maintenance Release on any other product shall be a material breach by Buyer and cause for termination of any obligation of Seller under these Terms. Seller is not obligated to provide any support or maintenance under these Terms beyond access to Firmware Maintenance Releases as described above. Any additional support or maintenance provided by Seller will be at Seller’s sole discretion and shall be subject to any terms and conditions (including pricing) provided by Seller.

**12. Limited Product Warranty and Disclaimers.** See Attachment A.

**13. Services.** Buyer may place purchase orders for various services offered by Seller. Such services, if accepted or performed by Seller, shall be subject to these Terms, as well as the additional terms and conditions set forth in the then-current applicable statement-of-work issued by and signed by an authorized officer of Seller (“SOW”) that describe the deliverables and other terms unless Seller and Buyer have signed a written agreement for the performance of such services. In the event of a conflict between the terms and conditions of these Terms and those of a SOW, the terms and conditions of these Terms will prevail, unless the SOW expressly lists those portions of these Terms that are to be superseded (e.g. a blanket recital that the terms of SOW supersede all other written agreements will have no force and effect). Seller reserves the right to subcontract services to a third-party organization to provide services to Buyer.

**14. Ownership.** Seller owns and will retain all right, title and interest in and to any patents, copyrights, mask work rights, trade secrets, trademarks and other intellectual property rights in and to any Seller’s products and services and all work product created by Seller, as applicable. The sale of any product or service does not convey any license, by implication, estoppel, or otherwise, covering or relating to (a) combinations of the product or service with other products or programs, (b) apparatus or circuits in which the product or parts thereof may be used, (c) a process, machine, use, or application in connection with which the products or parts may be used, or (d) the manufacturing process of the product. Seller retains the copyright in all documents, catalogs and plans supplied to Buyer pursuant to or ancillary to these Terms.

**15. Product Restrictions and Obligations.** Buyer must not, and will not permit or authorize any third party to: (a) reverse engineer, decompile, disassemble, or otherwise

attempt to gain access to logic, structure, or design of any portion of any product (including but not limited to software, firmware and product application programming interfaces (API)), except as expressly permitted by established right under applicable law; (b) reproduce, modify, translate, enhance or create derivative works of any product; (c) remove software or firmware that is preloaded on a product; (d) circumvent or disable any technological feature or measure of a product, including the license-key security feature; nor (e) use a product in any system wherein a product malfunction could reasonably be expected to cause personal injury or death or property or environmental damage, including military applications, medical life support systems, aircraft control, navigation, or communication, air traffic management, or in the design, construction, operation, or maintenance of a nuclear facility. Buyer must not alter or remove any of Seller's trademarks affixed to or otherwise contained on or within the products.

**16. Additional Reader Product Restrictions and Obligations.** Buyer is not permitted to use or otherwise exploit any Seller vendor extension to the LLRP API that is contained in Seller's 'RFID reader' Reader Products except as solely necessary to create software application programs to operate on the Seller's RFID reader, Reader Products (but not RFID readers provided by other vendors) or on separate host machines solely in conjunction with Seller's 'RFID reader' Reader Products.

Buyer acknowledges and agrees that all antenna Reader Products are tested only for use with Seller's 'RFID reader' Reader Products. Buyer accepts, and Seller disclaims, all liability associated with any such use with non-Seller RFID readers, including without limitation, any damage or destruction of non-Seller RFID reader products.

Buyer must not modify, alter, or add any component to a Seller 'RFID reader' Reader Product, except that Buyer may: (a) add antennae, cables, or a power supply to an 'RFID reader' Reader Product that meet minimum performance requirements set forth in the applicable 'RFID reader' Reader Product documentation; (b) add lights, buzzers, sirens, and similar accessories to the GPIO port of the 'RFID reader' Reader Product; and (c) Buyer may mount a Reader Product inside a larger enclosure provided that conditions inside the enclosure remain within the environmental specifications published by Seller and Buyer obtains any additional regulatory certification requirements. Buyer shall not directly or indirectly import, export or reexport any Reader Products into a jurisdiction for which the Reader Products have not obtained all regulatory compliances and necessary licenses. Buyer may not otherwise modify or augment any 'RFID reader' Reader Product in a way that requires recertification of such Reader Product. Buyer is solely responsible for determining if any Reader Product and its operation comply with laws, guidelines, and regulations of the region in which it is located and operated. Seller does not warrant any changed portions of any Reader Products. Reader Products may not be co-branded with Buyer's marks or any third-party marks without Serialio's prior written consent as evidenced by the president at Serialio.

**17. Confidential Information.** Buyer acknowledges that all drawings, specifications, and other technical or business documentation, information, and materials delivered to or learned by Buyer from Seller or a product will be considered Seller's confidential information ("Confidential Information"). Buyer must: (a) hold and maintain in strict confidence all Confidential Information; and (b) not use any Confidential Information except as permitted by these Terms. Buyer will use at least the same degree of care to protect the Seller's Confidential Information as it uses to protect its own confidential information of like importance, and in no event will such degree of care be less than reasonable care. Buyer will only provide Confidential Information to those employees and contractors who have a need to know for the purposes specified in these Terms. Buyer must not disclose the Confidential Information to any third party, other than its contractors, without written authorization from Seller. Any improvement or modification to Confidential Information will be the sole property of Seller, regardless of whether any such improvement or modification was created by Buyer. Buyer recognizes that the Confidential Information is unique and consents to the remedy of injunction in addition to damages for violation of the terms of this section.

**18. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SELLER OR ITS SUPPLIERS BE LIABLE TO BUYER OR ANY THIRD PARTY FOR THE COST TO PROCURE SUBSTITUTE PRODUCTS OR SERVICES, THE COST TO REMOVE, REINSTALL, REWORK, OR RETEST PRODUCTS, LOST PROFITS OR DATA, LOST GOODWILL, OR INTERRUPTION OF BUYER'S BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO SELLER'S PRODUCTS OR SERVICES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE), EVEN IF SELLER OR ANY OF ITS SUPPLIERS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SELLER'S AGGREGATE LIABILITY ARISING OUT OF, OR IN CONNECTION WITH, SELLER'S PRODUCTS OR SERVICES (INCLUDING FROM ANY WARRANTY OR OTHER OBLIGATION) EXCEED THE TOTAL AMOUNT PAID TO SELLER IN THE PRIOR TWELVE MONTH PERIOD FOR THE PARTICULAR UNITS SOLD OR SERVICES PERFORMED UNDER THESE TERMS WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED (DETERMINED AS OF THE DATE OF THE ACCRUAL OF THE FIRST CLAIM), PROVIDED THAT SELLER'S MAXIMUM LIABILITY UNDER SECTION 24 ("INTELLECTUAL PROPERTY DEFENSE") SHALL BE ONE MILLION DOLLARS (US \$1,000,000). THE EXISTENCE OF MORE THAN ONE CLAIM AGAINST THE PARTICULAR UNITS SOLD TO OR SERVICES PERFORMED FOR BUYER UNDER THESE TERMS WILL NOT ENLARGE OR EXTEND THIS LIMIT.

NO CLAIM, SUIT, OR ACTION MAY BE BROUGHT AGAINST SELLER MORE THAN ONE YEAR AFTER THE RELATED CAUSE OF ACTION HAS OCCURRED.

BUYER ACKNOWLEDGES THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. EACH PARTY RECOGNIZES AND AGREES THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THESE TERMS ARE MATERIAL, BARGAINED FOR BASES OF ANY PRODUCTS SOLD OR PERFORMED BY SELLER AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY AND IN THE DECISION BY EACH PARTY TO PURCHASE AND SUPPLY SUCH PRODUCTS.

**19. Buyer Indemnity.** Buyer will indemnify, defend, and hold Seller harmless from and against any and all claims, damages, losses, costs, expenses and liability arising out of or related to: (a) third party claims arising out of or related to Buyer's use of products purchased from Seller, including any claim arising out of or related to any warranty made by or on behalf of Buyer; (b) any breach of Buyer's obligations under these Terms, including a breach of Section 17 ("Product Restrictions and Obligations") of these Terms; or (c) any claim related to Buyer's failure to pay applicable taxes, duties, or charges in accordance with Section 4 ("Pricing") of these Terms.

**20. Force Majeure.** Seller will not be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control, including but not limited to Acts of God, government actions (including any judicial order or decree), war, civil disturbance, insurrection, sabotage, terrorist act, any communication or power failure, labor shortages or disputes, failure or delay in delivery by Seller's suppliers or subcontractors, transportation difficulties, shortage of energy, raw materials or equipment, technical or yield failures, or Buyer's fault or negligence. In the event of any such delay, the date for delivery of any products or services will, at the request of Seller, be deferred for a period up to the time lost by reason of the delay.

**22. Export Control.** Buyer acknowledges that Seller will provide Buyer with technical data, technology, services, or products, in finished or unfinished state that may be subject to U.S. export controls under the laws and regulations of the United States (collectively "Export Controlled Technology"). U.S. export control laws and regulations include the International Traffic in Arms Regulations ("ITAR"), 22 C.F.R. §§ 120 et seq., and the Export Administration Regulations, 15 C.F.R. §§ 730 et seq. Buyer warrants that it will not export or re-export any Export Controlled Technology or any technical data/technology or product derived from the Export Controlled Technology, except pursuant to a U.S. government license or other approval, or upon determination that such export may be lawfully exported without prior approval under a license exception, exemption, or other authority. Buyer acknowledges and understands that Seller may need to apply for export licenses in order to ship Export Controlled Technology to Buyer. Buyer will provide such information,

assurances, and documentation and take such other steps as necessary to assist Seller in obtaining any export licenses, including, but not limited to, execution of end-user certifications, document marking and supplemental agreements with respect to control and handling of Export Controlled Technology. In compliance with U.S. regulations regarding Technology and Software under Restriction ("TSR"), Buyer will not, without express approval of Seller (pursuant to issuance of an export license from the Bureau of Industry and Security), re-export or release any technology, direct product of the technology, software, or source code related to the technology provided by Seller to Buyer to a national of a country specified in Country Groups D:1 or E:2 as set forth in 15 C.F.R. Part 740, Supplement No. 1 and as amended. Seller will have no responsibility for delayed delivery or non-delivery resulting from: (a) any governmental action under U.S. or other applicable law suspending or revoking a necessary export license or authorization; (b) any failure by Buyer to furnish reasonable assurance, upon request, of its compliance with applicable export requirements; or (c) obtaining a necessary export license for the products to be shipped hereunder.

**23. U.S. Government Restricted Rights.** If a product is purchased for use by the United States or for use in the performance of a United States government prime contract or subcontract, Buyer agrees that such all software, firmware, technical data and documentation provided with a Reader Product is delivered as: (i) "commercial computer software" as defined in DFARS 252.227-7013, Rights in Technical Data - Noncommercial Items (Oct 1988), DFARS 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Jun 1995), and DFARS 252.211-7015 Technical Data Commercial Items (May 1991); (ii) as a "commercial item" as defined in FAR 2.101; or (iii) as "restricted computer software" as defined in FAR 52.22719, Commercial Computer Software— Restricted Rights (Jun 1987); whichever is applicable. The use, duplication and disclosure of the software, firmware, technical data and documentation by the Department of Defense shall be subject to the terms and conditions set forth in these Terms as provided in DFARS 227.7202 (Oct 1998). All other use, duplication and disclosure of the software, firmware, technical data and documentation by the United States shall be subject to these Terms and the restrictions contained in subsection (c) of FAR 52.227-19, Commercial Computer Software—Restricted Rights (Jun 1987), or FAR 52.227-14, Rights in Data -- General Alternative III (Jun 1987). Contractor/licensor is Serialio, Inc, 715 Discovery Blvd, Suite 510, Cedar Park, TX 78738.

**24. Intellectual Property Defense.** Seller shall defend or settle, at its expense, any claim against Buyer made by a third party to the extent that such claim arises from an allegation that any product (excluding Third Party Software) purchased under these Terms (a "Product") directly infringes such third party's valid U.S., Canadian, Japanese or European Union member country patent or copyright (an "Infringement Claim") and Seller shall pay such damages and costs as are finally awarded against Buyer attributable to such claim, provided that (a) Buyer notifies Seller promptly in writing of such claim, (b) Buyer gives Seller full and complete control, information and assistance over the defense and/or settlement of such claim, (c) Buyer does not

enter into, and Seller is not responsible for, any settlement or compromise of any such claim without Seller's prior written consent, (d) Buyer complies with any settlement or court order made in connection with such claim (e.g., relating to the future use of any Product), and (e) Seller is not responsible for any damages, costs or expenses incurred or made by or on behalf of Buyer without Seller's prior written consent. Buyer hereby agrees to make available to Seller the benefit of any defense available to Buyer, including, but not limited to, any license or option to license or sub-license any patent right that is the subject of such Infringement Claim.

If any Products or parts thereof becomes, or in Seller's opinion may become, the subject of an Infringement Claim, Seller may, at its option, (x) procure for Buyer the right to continue using such Products or parts, (y) modify or replace such Products or parts with substantially equivalent non-infringing products, or (z) terminate any agreement to the extent related to such Products and repurchase all applicable Products in Buyer's possession at the time of termination.

Seller shall not be obligated to defend or settle, or pay any damages or costs resulting from, any Infringement Claim, arising from (a) use of any Product or any part thereof, in combination with any other product, (b) use of any Product or any part thereof in the practice of a process or method, (c) any modification of or addition to any Product other than by Seller if a claim of infringement would have been avoided by a Product without modification or addition, (d) use or distribution of any Product in a manner or for an application other than for which it was designed or intended, regardless of whether Seller was aware of or had been notified of such use, (e) compliance with any of Buyer's designs, specifications or instructions, (f) Buyer's failure to use any Product in accordance with the product documentation or instructions provided by Seller, (g) a claim of infringement of any third party patent right covering the manufacture, testing or application of any assembly, circuit, combination, method or process in which the Product may have been used, (h) a claim of infringement of any third party patent right with respect to which Seller or an affiliate has informed Buyer, or has published (in a datasheet or other Product documentation), a statement that a separate license has to be obtained and/or that no implied license is granted, (i) a claim of infringement of any third party patent right covering a standard set by a standard-setting body and/or agreed between at least two unaffiliated companies, (j) Buyer's use, sale, offer for sale, importation or other disposition or exploitation of a Product after Seller's notice to Buyer that Buyer should cease any such disposition or exploitation (provided, that such notice shall only be given if the Products is, or in Seller's opinion is likely to become, the subject of a claim of infringement), (k) any third party patent right with respect to which a license is generally offered to the RFID industry, (l) for any damages attributable to the value of the use of a non-Seller Product and/or (m) any third party software included with or incorporated in a Product as identified by Seller in the applicable Product documentation or ATOSA.

Seller's obligations hereunder shall not apply to any alleged infringement occurring after Buyer has received notice of such alleged infringement unless Seller thereafter gives to

Buyer written consent for such continuing alleged infringement.

SUBJECT TO THE EXCLUSIONS AND LIMITATIONS SET FORTH IN SECTION 18 ("LIMITATION OF LIABILITY") THE FOREGOING STATES THE ENTIRE LIABILITY OF SELLER AND EXCLUSIVE REMEDY OF BUYER FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS BY OR RELATED TO PRODUCTS.

**25. Miscellaneous.** These Terms and the performance by the parties will be construed in accordance with the laws of the State of Texas, U.S.A., without regard to conflicts of laws. These Terms will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, or by the Uniform Computer Information Transactions Act (UCITA). Buyer and Seller consent to the exclusive jurisdiction of, and venue in, the state and federal courts located in Williamson County, Texas, U.S.A. Notwithstanding the foregoing, any judgment may be enforced in any United States or foreign court, and Seller may seek injunctive relief in any United States or foreign court. No failure or delay (in whole or in part) by Seller to exercise any right or remedy will operate as a waiver of that right or remedy or affect any other right or remedy. Except as otherwise expressly set forth in these Terms, all rights and remedies specified in these Terms are cumulative and are not exclusive of any other rights or remedies specified in these Terms or proscribed by law. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default. Buyer must not assign these Terms without the prior written consent of Seller. Any purported assignment without Seller's prior written consent is null and void. Seller may assign these Terms in whole or in part, including by operation of law, without Buyer's consent. Subject to the foregoing, these Terms will be binding upon and inure to the benefit of the parties and their respective successors and assigns. Any notice provided pursuant to these Terms will be deemed to have been given if sent by prepaid first-class mail to the party concerned at its last known address. Notice to Seller must be sent to Seller's legal department, at its home office. If for any reason a court of competent jurisdiction finds any provision of these Terms to be unenforceable, that provision will be enforced to the maximum extent possible to effectuate the intent of the parties, and the remainder of the Terms will continue in full force and effect. These Terms, together with Seller's quotation, order acknowledgement or SOW, as applicable, supersede all prior communications, transactions and understandings, whether oral or written, and constitute the sole and entire agreement between the parties pertaining to purchase of products and services by Buyer and matters addressed in these Terms. No modification, addition, deletion, or waiver of any of these Terms or Seller's quotation or order acknowledgement will be binding on Seller unless made in a non-preprinted agreement expressly indicating that it is a modification or waiver of these Terms, and signed by an authorized officer of Seller. The section headings contained in these Terms are for reference purposes only and will not affect in any way the meaning or interpretation of these Terms. Seller is an independent contractor in the performance of each and every transaction pertaining to the products and services.





The following sets forth Serialio's standard limited warranty terms current as of the revision date below. Serialio reserves the right to update these terms from time to time. Any updated terms and conditions shall apply to all purchases after the revision date of the updated terms and conditions.

### LIMITED HARDWARE WARRANTY AND DISCLAIMER

1. Limited Hardware Warranty. Serialio warrants to Buyer that the Serialio product hardware will substantially conform to Serialio's then-current published specifications for such product hardware. This limited warranty lasts:

- (a) 1 year from the date of shipment to Buyer for finished semiconductor products (including but not limited to engines, inlays, etc.), but in no event for more than 15 months from the date of shipment by Serialio; (b) 180 days from the date of shipment by Serialio for products sold in die or wafer form (excluding die adhesion claims) provided Buyer performs incoming inspections specified by Serialio; otherwise, 90 days;
- (c) 90 days from the date of shipment by Serialio for products sold in die or wafer form with respect to claims related to die adhesion on the wafer carrier tape;
- (d) 90 days from the date of shipment to Buyer for cables, power supplies, antennas and other accessories provided as part of or that work with a Serialio RFID reader product (excluding any software), but in no event for more than 6 months from the date of shipment by Serialio; and
- (e) 1 year from the date of shipment to Buyer for all other portions of a Serialio RFID reader product, but in no event for more than 15 months from the date of shipment by Serialio.

A Buyer for a finished semiconductor product and products sold in die or wafer form is defined as an OEM who purchases directly from Serialio or indirectly through an authorized Serialio distributor. A Buyer for Serialio RFID reader products and accessories is defined as an end user who purchases directly from Serialio or a reseller/OEM who purchases directly from Serialio or indirectly through an authorized Serialio distributor. The date of shipment by Serialio is set forth on the packaging material in which the Serialio product is shipped. This limited warranty extends only to Buyer, except that a reseller/OEM purchasing a Serialio RFID reader product or accessory may pass through this limited warranty to its direct end user customer of the product or accessory (with the shipment date to Buyer corresponding to the shipment date to reseller/OEM).

#### 2. Warranty Services, Procedures and Exclusions.

2.1 If Buyer purchases a Serialio product through a third party, Buyer shall coordinate with such third party for any warranty service request from Serialio. If Buyer believes, after reasonable investigation, that a Serialio product failure is covered by the warranty above, Buyer should contact the company from which it purchased the Serialio product. Buyer shall provide sufficient information to enable Serialio support personnel to determine the cause of the failure. Serialio may require Buyer to return the Serialio product for further evaluation.

2.2 If a Serialio product is to be returned to Serialio, Buyer shall, at its expense, return the Serialio product in accordance with Serialio's instructions, including use of the Return Material Authorization (RMA) number assigned by Serialio. Serialio's obligations under this limited warranty are: (a) subject to Buyer's compliance with Serialio's then current RMA procedures; (b) subject to Buyer's written notice to Serialio's of a warranty claim during the applicable warranty period; and (c) limited to Serialio products that are received by Serialio no later than four weeks following the last day of the applicable warranty period and are determined by the Serialio to be covered by the warranty provided in these terms. Serialio will make the final determination as to whether a Serialio product is defective.

2.3 If Serialio determines, after an examination of the returned Serialio product, that a returned Serialio product is not defective under the warranty, then Buyer will be notified, the Serialio product will be returned at Buyer's expense and Buyer will pay for Serialio for its examination and/or testing of by Serialio at its rates then in effect. Serialio may offer out-of-warranty repair services for Serialio products at rates then in effect. 2.4 If Serialio reasonably confirms that an Serialio product is defective under the warranty and not covered by the exclusions below, then Serialio shall, at its option and expense and in accordance with these terms, either: (a) repair the Serialio product; (b) replace the Serialio product; or (c) issue a

credit or refund for the amount paid by Buyer for the Serialio product. If Serialio elects to repair or replace an Serialio product, Serialio will have a reasonable time to repair the Serialio product or provide a replacement. Serialio shall also issue a credit or refund for Buyer's reasonable shipping expenses actually incurred to return the defective Serialio product to Serialio. Overnight shipping charges shall not be reimbursed unless expressly approved by Serialio at time of RMA authorization.

2.5 All Serialio products or hardware components repaired or replaced under warranty shall be warranted for the remainder of the warranty period or 90 days (or 14 days with respect to die adhesion claims for Serialio products sold in die or wafer form), whichever is greater. Repaired or replaced Serialio products may contain used or refurbished parts.

2.6 The warranty and remedies set forth in these terms shall not apply to: (a) software, firmware, or non-hardware related problems; (b) products that are as prototype, experimental, samples, risk, or beta or sold "as is"; (c) alterations, repairs or modifications of, or additions to, Serialio products made by parties other than Serialio; (d) use of Serialio products in a manner for which they were not designed or other than as specified in the applicable technical specifications; (e) the combination, use, or interconnection of the Serialio products with accessories not provided by Serialio; (f) abnormal usage or misuse of the Serialio products, including, but not limited to, accident, electrical stress, fire, water damage, earthquake, lightning, other acts of nature, and other causes external to the Serialio products; (g) installation or maintenance of wiring, circuits, electrical conduits, or devices external to the Serialio products; (h) failure to provide and continually maintain adequate electrical power, air conditioning, and humidity controls in accordance with Serialio product requirements; (i) failure to follow any other instructions provided by Serialio, including, without limitation, any handling, storing, testing, installation, processing and operating instructions; (j) reseller's or a third party's negligence or defects that are caused or introduced by any entity other than Serialio; or (k) Serialio products sold through unauthorized sales channels.

2.7 This Section 2 sets forth Buyer's exclusive remedy, and Serialio's entire liability in contract, tort, or otherwise for any breach of warranty for any Serialio product sold by Serialio to Buyer.

#### 3. DISCLAIMER.

Buyer understands that semiconductor products in die or wafer form are highly sensitive to environmental conditions and assumes all responsibility for the proper handling, storage, testing, installation, assembly, operation, maintenance and quality control of such die or wafer products.

Testing and quality control techniques are used to the extent that Serialio deems necessary. Serialio does not necessarily test all parameters of each Serialio product.

Buyer agrees to thoroughly test its finished products that integrate Serialio products prior to the sales of such finished products. In addition, Serialio shall have no liability to Buyer to the extent such failure is caused by noncompatibility with other components used by Buyer.

Serialio may provide technical, applications or design advice, quality characterization, reliability data or other services. Serialio agrees that providing these services will not expand or otherwise alter Serialio's limited warranty, as set forth in these terms.

EXCEPT FOR THE EXPRESS LIMITED WARRANTY PROVIDED ABOVE, SERIALIO MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. SERIALIO EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY AND ANY ARISING IN THE COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. SERIALIO DOES NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SERIALIO PRODUCTS OR AGAINST



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ARISING OUT OF OR BASED ON END USERS' USE OF THE SERIALIO PRODUCTS. BUYER SHALL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF SERIALIO TO ANY THIRD PARTY, EXCEPT AS EXPRESSLY SPECIFIED IN THESE TERMS.

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