



## SORNA CORPORATION

### TERMS AND CONDITIONS

**APPLICATION.** These terms and conditions (this “Agreement”) or (“Terms and Conditions”) shall apply to any purchase of a product or service by Customer from Sorna Corporation. Customer’s issuance of a Purchase Order constitutes acceptance of Sorna Corporation’s Terms and Conditions.

#### ORDERS PROCEDURE.

**Purchase Order Transaction Terms.** Customer shall specify the following information as applicable (collectively, the “Purchase Order Transaction Terms”) in each Purchase Order:

a list of Products sold by Sorna (“Products”) to be purchased, including part numbers;

service to be purchased including associated Product serial number for service;

quantities ordered;

requested delivery date;

address for delivery; and

business point of contact.

**Purchase Order.** Customer shall issue all Purchase Orders in written form via facsimile, email, or US mail, and cause all Purchase Orders to contain the Purchase Order Transaction Terms. By placing a Purchase Order, Customer makes an offer to purchase Products or service under the terms and conditions of this Agreement, including the Purchase Order Transaction Terms, and on no other terms. Except regarding the Purchase Order Transaction Terms, any attempted variations made to the terms and conditions of this Agreement by Customer in any Purchase Order are void and have no effect.

**CHANGES, CANCELLATION.** Purchase Orders accepted by Sorna are not subject to changes or cancellation by Customer except with Sorna’s written consent. If Sorna consents to Customer’s cancellation of a Purchase Order, Customer shall not be entitled to any refund of any amount paid under this Agreement and cancellation charges may apply at Sorna’s discretion.

#### ADVANCED EXCHANGE MAINTENANCE.

**Advanced Exchange Maintenance Services.** Sorna’s service, under an Advanced Exchange Maintenance contract (“Maintenance Contract”), during the Maintenance Term, includes: (1) remote technical support during normal business hours; (2) for software maintenance inclusive contracts, Software updates as made available; and (3) for hardware maintenance inclusive

contracts, hardware adjustment and replacement of parts or systems as deemed necessary by Sorna in its reasonable discretion (as more fully described below) “Service.” Software-only contracts do not include hardware maintenance, repair, or replacement.

**Remote Technical Support.** Maintenance Contracts provide for remote technical support between the hours of 8:00 a.m. to 5:00 p.m. (CST) Monday through Friday, excluding holidays. Outside of normal business hours, technical support will be performed only in Sorna’s sole discretion, with Sorna’s advance approval, and Customer will be billed at Sorna’s after-hours rate (Tech Support, after hours). Customer agrees to provide Sorna with all reasonable assistance and remote access to Customer’s system to provide maintenance services.

**Remedial Maintenance.** After notification by Customer, Sorna will diagnose the failure and then perform remedial maintenance. Vital failures will be diagnosed and repaired in a commercially reasonable time. Sorna will begin diagnosis of non-vital failures within 24 hours after notification of failure, excluding weekends and holidays. Maintenance procedures may necessitate that the entire system be available to the engineer(s) until system operation is restored. Customer shall provide at its expense, reasonable access to the Product(s), adequate working and storage space, and facilities as needed by Sorna to provide remedial service.

**Software Updates.** As part of its efforts to improve the functionality of the Product Software, Sorna may continue to develop, modify, update and upgrade the Product Software. From time to time, Sorna may release new updates which enhance stability, improve functionality, and address problems raised by Sorna’s customers. Maintenance Contract services will include provision of such updates, bug fixes, patches, and other error corrections (collectively, “Updates”) as Sorna makes generally available free of charge to all licensees of the Software then entitled to maintenance and support services. Sorna may develop and provide Updates in its sole discretion, and Customer agrees that Sorna has no obligation to develop any Updates at all or for particular issues. Maintenance and support services do not include any new version or new release of the Software that Sorna may issue as a separate or new Product, and Sorna may determine whether any issuance qualifies as a new version, new release, or Update in its sole discretion.

Customer agrees to install any Product Software Update at Sorna’s request. Failure to keep Product Software up to date would be a material breach of this Agreement for which Sorna may cancel its Service and the Maintenance Contract, at its option.

**Repair and Replacement of Hardware Under Advanced Exchange Maintenance.** Sorna shall perform remedial work on a best effort basis. If Sorna is unable to remedy the problem remotely, and the Customer’s system is substantially compromised or unusable, then Sorna may, subject to availability and at its discretion, ship a field replaceable part, or a new or refurbished replacement system, to the Customer. If the field replaceable part or



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replacement system is available and can be shipped by 12:00 p.m. Central Standard Time, it will be shipped for delivery the next business day.

Available parts or systems will either be new or reconditioned to perform as new. They will be furnished on an exchange basis and the exchanged parts will become the property of Sorna. Customer must ship the defective part or Product being replaced back to Sorna within 5-business days of Sorna's agreement to receive the part or Product, properly packaged to avoid damage, in the original or equivalent shipping container, and sufficiently insured. Customer will be charged the list price of the part or Product if not shipped within the five business days. Customer may not ship defective parts or Products to Sorna without Sorna's prior written consent.

If component parts or systems, including the personal computer or autoloader, have been discontinued, Sorna may not be able to repair or replace the malfunctioning part or system.

**Maintenance Contract Commencement.** For new systems, a Maintenance Contract shall start on the earlier of: Product installation date, or thirty (30) days after Sorna has shipped the system. If a previously purchased Product is not currently under a Maintenance Contract, Sorna may require an inspection for recertification of the Product prior to entering into a Maintenance Contract. Inspection time will be billed on a time and materials basis. When such inspection reveals failure of or damage to the Product(s), the failure and/or damage shall be repaired at Customer's expense prior to the assumption of normal Service on the Product by Sorna. A new Maintenance Contract for Products with expired Maintenance Contracts shall commence after the Product has been re-certified. Non-Sorna hardware must be certified prior to entering a Maintenance Contract. If a system is currently under a Maintenance Contract, then the new Maintenance Contract shall commence on the day after the current Maintenance Contract expires.

**Maintenance Term.** Provided that Customer's payment of Maintenance Contract fees are current, Sorna will provide the Service during the term of the Maintenance Contract until the applicable version of the Product has reached *end of service life*, defined as the time at which Sorna no longer provides support for such version of the applicable Product ("Maintenance Term"). If Maintenance Contract fees are past due, Sorna shall have no obligation to provide the Service, including any Updates, support services, or correction of defects.

**Maintenance/Support Exclusions.** Sorna has no obligation to provide maintenance and support services, including Updates:

for any but the most current or immediately preceding version or release of the Software;

for any copy of Software for which all previously issued Updates have not been installed;

if Customer is in breach of Sorna's [Software License Agreement](#); or

for any Software that has been modified other than by or with the authorization of Sorna, or that is being used with any hardware, software, configuration, or operating system not specified in the Documentation or expressly authorized by Sorna in writing.

Sorna will not be responsible to repair malfunctions caused by misuse, use with a third-party product, equipment relocation, or any other cause determined by Sorna to be external to the Products. Sorna will not be responsible to perform any data or software archival or back-up or routine or preventative maintenance. Sorna shall not be responsible for technical services of any sort related to system design or programming.

Sorna's Service under a Maintenance Contract does not include: (1) provision of accessories and consumable supplies; (2) repair of damage, replacement parts or increased service time due to any cause external to the Product(s), including, but not limited to, electrical work, unsuitable environment, neglect, improper use or misuse, or virus attacks; (3) repainting or refinishing; (4) installation or moving of equipment; (5) furnishing or installing cables; (6) alterations to the Product(s); (7) any service required by changes in or to the Product(s) or their connectivity to other machines or devices; (8) changing of ribbons or clearing of jams; or (9) cleaning or replacing print-heads or ink cartridges and drives.

**Time and Materials Maintenance.** Sorna may elect, in its sole discretion whether or not to assist Customer with any excluded maintenance. Any excluded maintenance, if performed, and any maintenance performed while not under a Maintenance Contract, shall be charged to Customer on a time and materials basis.

## CUSTOMER RESPONSIBILITIES.

**Preparation for Installation.** Customer shall ensure that the room and immediate vicinity shall be dust free and remain so during the duration of any Product installation. Customer supplied processors, laser imagers, cameras, computers, printers (and peripherals), routers, networks and network drops are to be installed and verified operational prior to installation of Software and hardware Products. Additionally, firewalls, backup power sources, virus software, and other security software and hardware are the Customer's responsibility to acquire, install and maintain current. Customer is responsible for implementing sufficient procedures for reconstruction of any lost data. Sorna assumes no responsibility for proper operation of Customer's network and associated hardware, nor for any virus attacks or malware arising after delivery of Product. Sorna is not responsible to repair computer malfunctions due to Customer's or another's unauthorized use or installation of computer programs for their personal use.

**Preventive/Routine Maintenance.** Preventive maintenance is the Customer's responsibility and should meet or exceed the manufacturer's recommended schedule. The Customer is responsible for the use, care, and cleaning of the Product(s) and routine maintenance which includes changing of ribbons/print cartridges, clearing of jams, cleaning print-head/ink cartridge and drives, and drive replacements. The Customer shall maintain the operating system to the current level as made available by Microsoft. The Customer is responsible to replace system hardware



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(e.g. computer, CD burner, printer, paper scanner, video capture device, etc.) at hardware manufacturer's specified end of life, at Customer's expense.

**Back-up.** Sorna does not ensure uninterrupted operation of the Products. It is the responsibility of the Customer to ensure that all of its files are adequately backed up and documented. Sorna will not be responsible for Customer's failure to do so, nor for the cost of reconstructing data stored on disk files, tapes, memory, etc. lost during the course of performance of Service. Sorna is not responsible for rebuilding Customer's operating environment including, but not limited to, software installation, data restoration, and system configuration in the event of hardware or Software failure.

**Network Security and Safeguards.** Customer shall be responsible for ensuring the security of its network. Customer shall maintain appropriate physical, administrative, and technical safeguards to protect its data, electronic information systems, and the purchased Products from natural hazards, and unauthorized access or intrusion.

## **CHARGES AND PAYMENTS.**

The amount due annually under a Maintenance Contract is subject to change at the end of the term of an existing contract with sixty days' prior written notice. If Sorna notifies the Customer of any increase in charges and the Customer renews Service for an additional term, Service will continue at the new rate on the first day of the renewal term. Payment on a Maintenance Contract is due within thirty days of date of invoice. Payments for Products purchased are due 50% upon placement of order and balance within 30 days of shipping. Payment of invoices will constitute final acceptance of the Product.

Prices do not include any taxes on the Products, service, or any parts supplied thereunder. Any taxes, duties, or tariffs owed on services or any parts supplied thereunder, as well as shipping and insurance costs, are the sole responsibility of Customer. Tax-exempt entities shall provide evidence of tax-exempt status.

Late charges of the lesser of 1.5% per month, or the maximum allowed by law, will be imposed on outstanding balances. Customer may not set off any amount it owes to Sorna against any liability for which Sorna may be liable to Customer. Sorna reserves the right to increase or decrease its prices, add or remove Products, or change specifications, in its discretion.

**Security.** Until Customer has paid in full for the Products, Customer will keep the Products free and clear of all claims, liens, security interests, or other encumbrances. Customer will not attempt to dispose of the Products, or, without Sorna's written consent, remove the Products from the installation site until Customer has paid in full for the Products.

As collateral security for the full payment of the purchase price of the Products ordered, Customer hereby grants to Sorna a lien on and security interest in and to all of the right, title and interest of Customer in, to and under the ordered Products, wherever located, and whether now existing or hereafter arising or



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acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing.

**ALTERATIONS AND ATTACHMENTS.** Sorna reserves the right to cancel Services or adjust the specified charges, if any new equipment specifications, attachments, features or changes are made or added to a Product after a Maintenance Contract commences. Additional items purchased shall be made subject to this Agreement.

## **SHIPPING TERMS.**

**Delivery and Risk of Loss.** Sorna shall select the method of shipment of and the carrier for the Products. Sorna's standard shipping method for systems is Insured FedEx Ground or via Air Care Go Incorporated. Shipment of any other method and/or by any other carrier must be arranged with and approved by Sorna and is subject to handling charges to be determined by Sorna. Customer shall pay for shipping and delivery charges and related insurance costs for all purchases under this Agreement. Delivery of Products will be FOB Sorna's place of business in Eagan, Minnesota. Risk of loss passes to Customer upon delivery of the Products at shipping point. Sorna will, after receipt and acceptance of a Purchase Order, provide Customer with an estimated delivery date. Sorna may reschedule any delivery up to 90 days beyond the original delivery date.

**Installation.** Any installation price quoted includes only those services specifically described in the Quotation or herein and does not include any additional time required or delay(s) experienced installing the Products resulting from the condition or location of the premises, Customer's requests, or any other cause(s) which are not within the scope of Sorna's installation responsibilities or reasonable control. Any labor and/or material costs incurred in excess of standard installation services purchased and any overtime incurred by Sorna employees in respect to such additional time required or delay(s) experienced (as well as any extra labor or overtime work performed at the request of Customer) will be invoiced to Customer and paid at then-prevailing Sorna service rates.

Sorna offers no warranty and assumes no liability for the fitness or adequacy of the premises (or the utilities available at the premises) on or into which the Products are to be installed, used, or stored. CUSTOMER AGREES TO HOLD SORNA HARMLESS AGAINST ANY LOSS, DAMAGE, OR CLAIM ARISING OUT OF THE CONDITION OF SUCH PREMISES OR UTILITIES.

**Inspection.** Customer shall inspect all Products promptly upon receipt thereof. Within 10 days after receipt, Customer shall provide Sorna with a written notification of any Products which are non-conforming and therefore rejected, with a reasonably specific reason for such rejection and evidence as reasonably required by Sorna. Any Product not properly rejected within ten (10) days after receipt of that Product by Customer shall be deemed accepted.



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## LIMITED PRODUCT WARRANTY.

Subject to Section 9.3, Sorna makes the following Limited Warranty solely to and for the benefit of, the Customer, and is contingent on Customer's full compliance with this Agreement, including proper use and handling of the Products:

Sorna's limited warranty of Sorna Software, if any is supplied under this Agreement, ("Software"), is described in Sorna's [Software License Agreement](#).

Customer acknowledges and agrees that Products purchased under this Agreement may contain, be contained in, incorporated into, attached to or packaged together with products manufactured by a third party ("Third Party Products"). Sorna makes no representations or warranties regarding any third-party Products.

AS THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR DEFECTIVE PRODUCTS SOLD UNDER THIS AGREEMENT, SORNA WILL, AT ITS DISCRETION, UPON THE RETURN OF THE NON-CONFORMING PRODUCT:

- REPAIR THE NON-CONFORMING PRODUCT;
- REPLACE THE NON-CONFORMING PRODUCT; OR
- REFUND THE PURCHASE PRICE.

Customer shall notify Sorna, in writing, of any alleged claim or defect within 10 days from the date Customer discovers, or upon reasonable inspection should have discovered, such alleged claim or defect (and in any event before the expiration of the applicable Warranty Period).

Except as provided under this section, all sales of Products under this Agreement are made on a one-way basis and Customer has no right to return Products purchased under this Agreement.

**Warranty Exclusions.** These warranties do not apply where the Products are sold as used or have:

been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions, or use contrary to any instructions issued by Sorna;

been installed, reconstructed, modified, repaired, relocated or altered by Persons other than Sorna; or

been used with any third-party product or hardware that has not been previously approved in writing by Sorna.

**LIMITATION ON WARRANTIES; NON-RELIANCE.** THE WARRANTIES SET FORTH BY SORNA IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, AND SORNA MAKES NO OTHER WARRANTIES RESPECTING THE PRODUCTS OR SERVICES PROVIDED HEREUNDER, EITHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF



PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES UNDER ARTICLE 2 OF THE UCC, ALL OF WHICH ARE HEREBY DISCLAIMED, EVEN IF SORNA HAS BEEN INFORMED OF SUCH PURPOSE. NO AGENT OF SORNA IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF SORNA AS SET FORTH HEREIN. THE REMEDIES GRANTED TO CUSTOMER UNDER SECTION 9.2 CONSTITUTE THE SOLE AND EXCLUSIVE REMEDIES OF CUSTOMER AGAINST SORNA FOR BREACH OF WARRANTY.

**LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL SORNA BE LIABLE FOR: (1) ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION, LOSS OF USE, REVENUE, OR PROFIT, EVEN IF SORNA HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES; OR (2) DAMAGES CAUSED BY THE CUSTOMER'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, NEGLIGENCE, OR MORE CULPABLE ACT; OR (3) CLAIMS, DEMANDS OR ACTIONS AGAINST THE CUSTOMER BY ANY OTHER PARTY; OR (4) "ACTS OF GOD."

SORNA'S ENTIRE LIABILITY AND THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR CLAIMS RELATED TO OR ARISING OUT OF THIS AGREEMENT FOR ANY CAUSE AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO THE CUSTOMER'S ACTUAL, DIRECT DAMAGES SUCH AS WOULD BE PROVABLE IN A COURT OF LAW, BUT NOT TO EXCEED THE AMOUNT PAID TO SORNA FOR THE SPECIFIC ITEM THAT CAUSED THE DAMAGES.

**PROHIBITED ACTIONS.** Sorna is the owner of all of the intellectual property associated with the Products. Customer shall not infringe on any intellectual property right of Sorna. Customer agrees not to modify, reverse engineer, disassemble, or decompile the Products. Customer may not resell or sublicense any Products. Customer will not export, re-export or otherwise disclose, directly or indirectly, technical data received from Sorna or the direct product of such technical data to any person or destination when such export, re-export or disclosure is prohibited by the laws of the United States.

**INDEMNIFICATION.** CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SORNA, ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION ARISING ON ACCOUNT OF OR OTHERWISE CAUSED BY, OR RESULTING FROM CUSTOMER'S BREACH OF THIS AGREEMENT, CUSTOMER'S NEGLIGENCE OR MORE CULPABLE ACT, OR CUSTOMER'S USE OF THE PRODUCT.

**CUSTOMER DEFAULT.** If, (a) Customer does not pay any amount when due, (b) Customer does not meet any of its other obligations hereunder or under a related agreement, or (c) a petition in bankruptcy has been filed by or against the Customer, the Customer has made an assignment for the benefit of creditors or a receiver has been appointed or applied for by the Customer; then (in addition to any other remedies available at law or in equity) Sorna may elect to terminate this Agreement, accelerate any





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balance due and require immediate payment thereof, and cease any and all work under this or any other contract with Customer (including, without limitation, providing service for the Products).

Customer shall return to Sorna, in the same condition as received, all property of Sorna, within five business days upon termination of this Agreement, or as otherwise applicable.

## **CONFIDENTIALITY.**

“Confidential Information” means all information concerning a party or any affiliate which the other party is provided access by virtue of this Agreement, including without limitation, trade secrets, technical information, product design and development, drawings, data, workflow processes, implementation strategies, confidential information, third-party confidential information, materials comprising or relating to Intellectual Property Rights, sensitive or proprietary information, and any other information which, if disclosed to others, might be competitively detrimental to the disclosing party. The receiving party will hold the disclosing party’s Confidential Information in strict confidence and use such information only consistent with the rights and responsibilities under this Agreement. The receiving party will not reproduce or disclose Confidential Information to others without the disclosing party’s prior written consent. Upon discovery of any unauthorized intentional, unintentional, or accidental disclosure of Confidential Information, such party shall promptly notify the other party in writing of such disclosure. In the event that a party is requested or required to disclose any Confidential Information in response to a subpoena, discovery request, court order, or any other request, such party will provide the disclosing party with prompt written notice of such request so the disclosing party may seek an appropriate protective order.

## **DISPUTE RESOLUTION.**

**Governing Law.** This Agreement will be governed and construed, and all dispute resolution procedures under this Agreement will be determined, in accordance with the state laws of the State of Minnesota, and the federal laws of the United States of America, without regard to its conflicts of law rules.

**Good-Faith Negotiation.** Any and all claims, disputes, controversies, or differences arising between the Parties hereto out of or in relation to or in connection with this Agreement or any breach hereof shall in the first instance be attempted to be settled by good faith negotiations between representatives designated by the respective Parties who have decision-making authority. At the earliest practical time, a meeting shall be held to discuss the matter in dispute without prejudice to the interest of either Party.

**Mediation.** If a dispute arises out of or relates to this Agreement and if the dispute cannot be settled through negotiation and amicable means, the parties agree to try in good faith to settle the dispute by mediation before resorting to litigation. The mediation shall be attended by a representative of each Party with decision-making authority.

**Litigation.** The parties agree that until the foregoing terms of this Section 16 have been satisfied neither party shall initiate any legal action, except as provided for in Sections 16.6 and 16.7(a). The failure of the Parties to agree or resolve a dispute will not be a breach of this Agreement and will not in any way change the rights or obligations of the parties hereto.

**Attorneys' Fees.** If any suit or other proceeding is brought to construe or enforce any provision of this Agreement or any other agreement to be entered into under this Agreement, or otherwise in connection with this Agreement, the prevailing party's reasonable attorneys' fees and costs (in addition to all other amounts and relief to which such party or parties may be entitled) will be paid by the other party.

**Injunction.** The foregoing provisions of this Section 16 shall not preclude the parties from applying for any preliminary or injunctive remedies available for any purpose including, without limitation, enforcement of the confidentiality provisions of this Agreement.

**Jurisdiction and Venue.** The state court (or, if there is exclusive federal jurisdiction, the United States District Court) in the state of Defendant's principal place of business shall have exclusive jurisdiction and venue over any dispute arising out of this Agreement, other than as set forth below, and the parties hereby consent to the jurisdiction of such courts.

**Intellectual Property Disputes.** Notwithstanding the foregoing of Section 16: (i) any claim relating to the validity of any of the parties' Confidential Information or other proprietary technology or intellectual property, or Sorna's [Software License Agreement](#), will be determined by a court located in Minneapolis, Minnesota, USA to whose exclusive jurisdiction the parties hereby consent; and (ii) each party acknowledges that any breach of its obligations under this Agreement which relates to the proprietary rights or Confidential Information of the other, or which is otherwise not subject to remedy by monetary damages, will cause the other irreparable harm, and that such party accordingly will be entitled to seek injunctive and other equitable relief in addition to all other remedies provided by this Agreement or available at law, in any court of competent jurisdiction, without the requirement of posting bond.

**INSURANCE.** The Parties, at their own expense, shall procure and maintain policies of insurance required by law and at such levels as are appropriate and customary for the industry, and the scope of activities and operations, and the party's obligations hereunder. Upon reasonable request, each party shall furnish to the other a certificate of insurance evidencing such coverage. Each Party shall maintain an insurance policy(ies) for data breaches and cybersecurity and shall include coverage for Network Security and Privacy; Regulatory Costs and Fines; Incident Response Costs; Legal, Forensic and Breach Management Costs; Extortion; System Damage and Rectification Costs; and System Business Interruption and Reputational Harm with a \$2,000,000 limit per the aforementioned coverages listed and a \$2,000,000 annual aggregate limit of all claims.

**FORCE MAJEURE.** Sorna shall have no liability to fulfill its obligations hereunder, due to events outside its control, including, without limitation, acts of God, labor disputes, extreme weather, pandemic,



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epidemic or the failure of Product manufacturer to provide parts or material. The time for performance of Sorna's obligations hereunder shall be extended for a commercially reasonable period of time in the event of any delay or default for such cause(s). If an event outside of Sorna's control, lasting at least 30 days, prevents Sorna from performing its obligations under a Maintenance Contract, Customer's exclusive remedy shall be cancellation of the Maintenance Contract and reimbursement on a pro rata basis for amounts paid in advance for Services beyond the first year that were to be rendered after the date of cancellation. In addition to the rights of Sorna under Section 6, if, after Sorna's acceptance of a Purchase Order, but before shipment of a Product, a force majeure circumstance presents, including in the event that tariffs or supplier/product manufacturer's prices are raised, Sorna may change its prices and specifications of the ordered Product.

**NO THIRD-PARTY BENEFICIARIES.** The parties do not confer any rights or remedies upon any person other than the parties to this Agreement and their respective successors and permitted assigns.

**REPRESENTATIONS.** Each party represents and warrants that it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder.

**MERGER.** This Agreement supersedes all prior discussions and agreements between the Parties relating to the subject matter of this Agreement. Sorna's [Software License Agreement](#) is hereby made a part hereof and incorporated by reference. In case of a conflict arising between this Agreement and Sorna's Software License Agreement, where the issue pertains to Sorna's Software, Sorna's Software License Agreement shall control. Other than these Terms and Conditions (including Sorna's Software License Agreement), any terms and conditions contained in any other documentation related to the subject matter of this Agreement, including any on the Customer's purchase order other than the Purchase Order Transaction Terms, or any other document issued by Customer, are expressly excluded. This Agreement can only be modified by a written amendment duly signed by persons authorized to sign agreements on behalf of both Parties, and will not be supplemented or modified by any course of dealing or trade usage.

**SURVIVAL.** Any obligations and duties that by their terms or nature extend beyond the expiration or earlier termination of this Agreement will survive any such expiration or termination, including, but not limited to obligations with respect to Payment, Confidentiality, Limitation of Liability, IP Ownership, Dispute Resolution, Indemnity, and Customer's obligation to return Sorna property.

**UNENFORCEABILITY.** If any provision of this Agreement is deemed to be illegal, unenforceable, or invalid, in whole or in part, the validity and enforceability of the remaining provisions shall not be affected or impaired and shall continue in full force and effect. Additionally, the court shall redraft the invalid portions to best reflect the intent of the parties while giving effect to such intent to the maximum extent permissible by law.

**WAIVER.** No delay or omission by a party to exercise any right or power accruing upon any breach of any covenant or agreement contained herein shall be construed to be a waiver of any such right or power or any acquiescence in such breach. No waiver by any party of any of the provisions hereof shall be effective unless set forth expressly in writing and signed by a duly authorized representative of the party so waiving.