



STANDARD TERMS AND CONDITIONS OF SALE

IMPORTANT NOTICE: *If you are purchasing products manufactured by EchoNous under a GPO, IHN or other specified Contract, the terms of such GPO/IHN or other contract will govern, and not these Standard Terms and Conditions. This notice will also appear on the Quote.*

EchoNous, Inc. ("EchoNous") is the exclusive distributor of EchoNous' products in the USA and Canada. The Product Agreement, Software Agreement, and Quote attached (together, the "Agreement") set forth the entire contract between the parties and supersede all prior understandings or agreements of EchoNous and Customer regarding the purchase, sale and use of Products. Any changes to these terms and conditions must be agreed upon in writing by the Parties.

1. **Acceptance and Performance.** EchoNous will deliver to Customer, and Customer will accept and pay for, all Products ordered by Customer. Acceptance of an order by EchoNous will be either in writing or by the act of order shipment. EchoNous may accept any order in whole or in part and EchoNous' shipment of less than all Products ordered will constitute acceptance only as to those Products shipped. Customer shall pay for the units shipped. EchoNous will not be liable for any non-delivery of Products, except that EchoNous will adjust the invoice in respect of such Products to reflect the actual quantity delivered.
2. **Firm Order.** Prior to order shipment and without additional charge, Customer may cancel or modify any order by reducing the quantity. In the event of order cancellation or modification within 30 days of shipment, Customer shall return all cancelled Products in new and unopened condition within 15 days of such cancellation or modification, at Customer's cost. Failure to do so shall cause Customer to retain the Products and be responsible for the full purchase price. Product orders may not be cancelled or modified more than 30 days after Products are shipped.
3. **Delivery.** EchoNous will use reasonable efforts to meet order delivery dates but is not liable for failure to do so. EchoNous will deliver the Products FOB destination freight prepaid and added. The risk of loss, damage or casualty to the Products transfers to Customer at the time EchoNous delivers the Products to Customer's Quote address. Title to the Products transfers to Customer once EchoNous has received, in cleared funds, the purchase price.
4. **Prices.** The purchase prices and charges payable by Customer for the Products ordered are forth in the Quote.
5. **Taxes.** The prices described in Section 4 do not include tax. Customer will pay or reimburse EchoNous for all taxes or will provide EchoNous with a tax exemption certificate, as applicable.
6. **Payment.** EchoNous will issue invoices for all amounts payable under this Product Agreement. Any amount not paid within the time period specified on the Invoice will be subject to a finance charge equal to 1.5% per month until the date paid. Payment of such finance charges will not cure Customer's breach. Customer shall be responsible for the payment of all costs (including court costs and reasonable attorneys' fees) incurred by EchoNous in collection of any amounts owed by Customer.
7. **Trade-In Equipment.** Customer agrees to return to EchoNous, upon receipt of the Products purchased under this Product Agreement, any authorized trade-in equipment listed on the Quote as being traded in by Customer and used to reduce the price of Products (the "Trade-In Equipment"). Customer shall return the Trade-In Equipment to EchoNous via insured delivery, and EchoNous will issue Customer a receipt indicating the value of the Trade-In Equipment.
8. **Express Warranty and Disclaimers.** EchoNous' warranties for the Products are contained in the Warranty Schedule, which forms an integral part of this Product Agreement. EchoNous MAKES NO OTHER REPRESENTATION, WARRANTY OR PROMISE OF ANY KIND except for the referenced Warranty Schedule.
9. **Exclusive Remedy and Release.** In the event of Warranty Schedule breach, Customer shall follow the procedure specified therein and obtain the identified remedies. THIS REMEDY SHALL BE THE EXCLUSIVE AND SOLE REMEDY OF CUSTOMER FOR ANY BREACH OF THE WARRANTY SCHEDULE.
10. **Indemnification.** EchoNous will defend and indemnify Customer from and against any third party claim for bodily injury (including death) or damage to property to the extent caused by a defect in the design or manufacture of the Products, provided that Customer: (a) gives EchoNous prompt written notice of the claim; (b) assists and cooperates with EchoNous in the defense and settlement of the claim; (c) complies with any court order or settlement made in connection with the claim. This Section will not apply to any claim arising out of: (v) failure to operate, maintain or store the Product in accordance with applicable instructions; (w) dismantling, repair or alteration of the Product by Customer or its agents; (x) any use of the Product in connection with any equipment or other items not furnished by EchoNous; (y) any negligence or willful misconduct; and (z) further use of the Product after Customer's knowledge of any defect.

11. **Limitations of Liability.** EchoNous WILL NOT IN BE LIABLE FOR ANY BUSINESS, DATA OR FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH ANY PRODUCT, GOODS OR SERVICES UNDER THIS PRODUCT AGREEMENT. EchoNous' liability with regard to any Product, goods or services under this Product Agreement will not exceed three (3) times the purchase price paid by the Customer to EchoNous for the same.
12. **Software.** EchoNous retains title to all embedded, stand-alone and downloadable Software. Customer's use of all software is governed by the Software Agreement.
13. **Intellectual Property Rights.** EchoNous reserves all rights to the patent, copyright, trademark, trade secret and other intellectual property included in its Products. No title to or ownership of any intellectual property is transferred to Customer pursuant to this Product Agreement. Customer will not attempt to violate EchoNous's intellectual property rights.
14. **Confidential Information.** EchoNous may disclose to Customer certain proprietary or confidential information ("Confidential Information"). Except as otherwise authorized by EchoNous in writing, Customer will use such Confidential Information only for the purposes for which it is disclosed by EchoNous, will not disclose it to any third party, and will take appropriate steps to protect it from any unauthorized use or disclosure.
15. **Medicare/Medicaid Disclosure.** If EchoNous applies any discount, credit, rebate or other purchase incentive, such shall constitute a "discount or other reduction in price," as defined under the Medicare/Medicaid Anti- Kickback Statute. EchoNous and Customer agree to use their best efforts to comply with all requirements under 42 U.S.C. § 1320a-7b(b)(3)(A) and the "safe harbor" regulations regarding discounts or other reductions in price set forth in 42 C.F.R. § 1001.952(h). Customer may have an obligation to accurately report the net cost actually paid.
16. **Reimbursement Disclosure.** Customer shall verify current requirements and policies with the applicable payer for reimbursements. EchoNous makes no guarantees concerning reimbursement or coverage, and Customer should not rely on any information provided by EchoNous in submitting any claim for payment, without confirming that information with an authoritative source.
17. **Authorized Users.** The Products purchased by Customer may only be used by or on the order of a licensed practitioner authorized to prescribe or administer medical ultrasound.
18. **No waiver.** Any failure by EchoNous to enforce performance by Customer of any of the provisions of the Product Agreement will not be construed as a waiver of EchoNous' right to assert any provision.
19. **Assignment.** The Product Agreement will inure to the benefit of and be binding upon the parties and their respective successors, assigns and legal representatives. Other than the one-time transfer of the Warranty as set forth in the Warranty Schedule, Customer may not assign the Agreement. EchoNous may assign the Agreement without the prior consent of Customer.
20. **Severability of Unenforceable Provisions.** If any provision of any of the Product Agreement is found to be invalid or unenforceable, then the remainder of such agreement shall have full force and effect.
21. **Applicable Law and Venue.** The Product Agreement will be interpreted, construed, and enforced in accordance with the laws of the State of Washington. Customer consents to the personal jurisdiction and venue of the state and federal courts located in King County, Washington.
22. **Amendment.** No amendment, modification, or waiver of the Agreement will be valid unless set forth in writing and signed by both parties.
23. **Export Controls.** EchoNous is prohibited from selling products to persons/ entities who are the subject of sanctions imposed under applicable US federal and international laws. Customer represents that it is not an Embargoed/Sanctioned Target, and that EchoNous may conduct reasonable screening to confirm.
24. **Force Majeure.** In no event shall EchoNous be liable to Customer, or be deemed to have breached the Product Agreement, for any failure or delay in performing its obligations if such failure is caused by any circumstances beyond EchoNous's reasonable control, including acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, other civil unrest, strikes, or other industrial disturbances, or passage of law or any action taken by a governmental or public authority. If Force Majeure Event delays a party's performance for more than 30 days following notice, the other party may terminate this Agreement immediately upon written notice to such party.
25. **Notice.** Any notice required or permitted to be given by this Product Agreement by Customer to EchoNous shall be given postpaid, first class, registered or certified mail, or by email to: EchoNous, Inc., ATTN: Legal Department 8310 154th Ave. NE, Building B, Suite 200 Redmond, WA 98052; Email: legal@echonous.com

ANNEX A SOFTWARE AGREEMENT

This Software Agreement is the exclusive terms and conditions governing the Customer's use of: (A) all software embedded in or downloadable to the Product used or designed for the management or the operation of the hardware and the software comprising the Product ("Operating Software"); (B) all other proprietary software of EchoNous embedded in or downloadable to the Product that are designed for the acquisition, interpretation, calculation, storage, display or transportation of clinical data, including all KOSMOS AI algorithmic software applications ("Application Software"); and (C) any binary codes and documentation related to the Operating Software and the Application Software (collectively, the "Original Software"), as they may be updated or replaced by any which may contain error corrections, enhancements, improvements, or changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Original Software ("Maintenance Software"), whether in read only memory, on any other media or in any other form (the Original Software and Maintenance Software are collectively referred to as the "Software"). By purchasing or using the, the Customer agrees to be bound by this Software Agreement. In case of any conflict between this Software Agreement and the Product Agreement, the Software Agreement shall apply to any Software.

1. License.

- (a) **License to Software.** Conditioned on Customer's compliance with the Software Agreement, EchoNous grants Customer a limited non-exclusive license during the Term (defined below) to use the Software on a single Product. Unless as provided in a separate agreement between Customer and EchoNous, this License does not allow the Software to exist on more than one Product at a time, and Customer may not make the Software available over a network where it could be used by multiple Products at the same time.
- (b) **License to Maintenance Software.** Conditioned on Customer's compliance with the Software Agreement, EchoNous hereby grants Customer a limited non-exclusive license during the Term to download the Maintenance Software that may be made available by EchoNous for the Product to update or restore the Software on any such Product that is owned or controlled by the Customer. This License does not allow Customer to update or restore any Product that the Customer does not control or own, and Customer may not make the Maintenance Software Updates available over a network where they could be used by multiple Products at the same time.

- 2. **Maintenance Software.** During the Term, EchoNous will provide Customer with all Maintenance Software (including updated documentation) that EchoNous may, in its sole discretion, make generally available to its Customers at no additional charge. All Maintenance Software is deemed Software. Customer will install all Maintenance Software as soon as practicable after receipt or notification of availability.
- 3. **Application Software and New Versions.** Unless otherwise set forth in a separate agreement between Customer and EchoNous, Customer does not have any right to receive any new Application Software or any New Versions of any Software (other than Maintenance Software in accordance with Section 2) that EchoNous may, in its sole discretion, release. "New Version" means any new version of existing Software with substantially new functionality that EchoNous may introduce and market generally as a distinct licensed product (as may be indicated by EchoNous's designation of a new version number), and which EchoNous may make available to Customer at an additional cost under a separate written agreement. Any New Versions of any Software is considered Software under the Software Agreement.
- 4. **Term.** The Term means the following: (A) with respect to the Operating Software and the EF Workflow AI App version 1.0, in perpetuity; and (B) with respect to all other Application Software, during the duration set forth in the Quote or during the duration of the subscription as Customer may subscribe to from time to time pursuant to a separate subscription agreement signed between Customer and EchoNous.
- 5. **Use Restrictions.** Customer may not, and Customer agrees not to or enable others to, copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, or create derivative works of the Software or any services provided thereby (except as and only to the extent any foregoing restriction is prohibited by applicable law or by licensing terms governing use of open-source components that may be included with the Software). Customer agrees not to remove, obscure, or alter any proprietary notices (including trademark and copyright notices) that may be affixed/contained within the Software. Customer agrees not to use or offer the Software on a service bureau basis, host or stream the Software, circumvent technological measures intended to control access to the Software, develop, distribute, or use with the Software, products that circumvent the technological measures or rent, lease, sell, sublicense, or assign or transfer Customer's rights into the Software Customer agrees to not use the Software in any manner that infringes, misappropriates, or violates any intellectual property right of any person/entity, or that violates law.
- 6. **Reservation of Rights.** Except for the limited rights and licenses expressly granted herein, nothing in this Software Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Software.
- 7. **Third-Party Products.** EchoNous may distribute certain third-party products with the Software, subject to their own license terms and the applicable flow through provisions in Exhibit A. If Customer does not agree to abide by the applicable terms for such third-party products, then Customer should not install or use the Products. The Software also

contains certain open source software identified on Exhibit A. Customer acknowledges that such open source software is not licensed to Customer pursuant to the provisions of this Software Agreement and may not be construed to grant any such right and/or license. Customer shall have only such rights and/or licenses, if any, to use the open source software as set forth in the licenses referenced in Exhibit A.

8. **Feedback.** If Customer or any of its employees or agents sends communications/ materials to EchoNous ("Feedback"), EchoNous is free to use such Feedback and Customer hereby assigns to EchoNous and its assignees, on Customer's behalf, and on behalf of its employees, contractors and/or agents, all right, title, and interest in such Feedback for EchoNous's use if it chooses.
9. **Warranty.** EchoNous warrants that the Software will substantially conform to the applicable documentation provided with the Software or made available at www.echonous.com during the Warranty Term and that at the time of shipment the Software does not contain any virus or other malicious code that would cause the Software to become inoperable or incapable of being used in accordance with the documentation. "Warranty Term" means: (A) with respect to Operating Software, 5 years from the date of shipment of the Product to the Customer; (B) with respect to the EF Workflow AI App version 1.0, 5 years from the date of shipment of the Product; and (C) with respect to all other Application Software, during the duration set forth in the Quote This warranty does not apply if the Software, the Product or any other equipment upon which the Software is authorized to be used: (i) has been altered, except by EchoNous or its authorized representative, (ii) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by EchoNous, (iii) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; (iv) is licensed for beta, evaluation, testing, or demonstration purposes or other circumstances for which EchoNous does not receive a payment for the Product or a Fee for the license; or (v) has not been provided by EchoNous.
10. **Exclusive Remedy.** During the Warranty Term, in case of breach of the warranty at EchoNous's option and expense, EchoNous shall repair or replace the non- conforming Software. This remedy is conditioned on Customer reporting the non-conformance in writing to EchoNous within the Warranty Term. If EchoNous repairs or replaces the Software, the warranty will continue to run for the remaining duration of the Warranty Term. The remedies set forth in this Section are Customer's sole remedies.
11. **Transfer of Warranty.** Customer may transfer the Software Warranty only to the transferee of the Product warranty in accordance with the requirements of the Product Agreement and the Warranty Schedule applicable to such Product. All other transfers are strictly prohibited.
12. **Third Party Products.** THE FOREGOING WARRANTIES DO NOT APPLY, AND ECHONOUS STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD- PARTY PRODUCTS.
 - (a) **DISCLAIMER OF OTHER WARRANTIES.** EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THE ABOVE SECTION, THE SOFTWARE IS PROVIDED "AS IS" AND ECHONOUS DISCLAIMS ALL WARRANTIES,. ECHONOUS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON- INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 10(a), ECHONOUS MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE FREE FROM ANY INTRUSION OR ATTACK, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.
13. **Indemnification.**
 - (a) **EchoNous Indemnification.** EchoNous shall indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, and costs (including reasonable attorneys' fees) ("Losses") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("Third-Party Claim") that the Software, or any use of the Software or documentation in accordance with this Agreement, infringes or misappropriates such third party's US intellectual property rights, provided that Customer promptly notifies EchoNous in writing of the claim, cooperates with EchoNous in the defense and settlement of such claim. If such a claim is made or appears possible, Customer agrees to permit EchoNous at EchoNous's sole discretion, to (A) modify or replace the Software, or component or part thereof, to make it non-infringing, or (B) obtain the right for Customer to continue use. If EchoNous determines that none of these alternatives is reasonably available, EchoNous may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to Customer.
 - i. This Section will not apply to the extent that the alleged infringement arises from: (A) use of the Software in combination with data, software, hardware, equipment, or technology not provided by EchoNous or authorized by EchoNous in writing; (B) modifications to the Software not made by

EchoNous; or (C) use of any version other than the most current version of the Software delivered to Customer; or (D) any third party products.

- (b) **Customer Indemnification.** Customer shall indemnify, hold harmless, and, at EchoNous's option, defend EchoNous from and against any Losses resulting from any Third-Party Claim based on Customer's: (i) negligence or willful misconduct; or (ii) use of the Software in a manner not authorized or contemplated by this Agreement (iii) use of the Software in combination with data, software, hardware, equipment or technology not provided by EchoNous or authorized by EchoNous in writing; (iv) modifications to the Software not made by EchoNous; or (v) use of any version other than the most current version of the Software delivered to Customer, provided that Customer may not settle any Third-Party Claim against EchoNous unless such settlement completely and forever releases EchoNous from all liability with respect to such Third-Party Claim or unless EchoNous consents to such settlement, and further provided that EchoNous will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

14. **Sole Remedy.** THIS SECTION SETS FORTH CUSTOMER'S SOLE REMEDIES AND ECHONOUS'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN NO EVENT WILL ECHONOUS'S LIABILITY UNDER THIS SECTION 11 EXCEED THE FEES PAID BY THE CUSTOMER FOR THE SOFTWARE THAT IS THE SUBJECT OF A THIRD-PARTY CLAIM.

15. **Limitations of Liability.** IN NO EVENT WILL ECHONOUS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER ECHONOUS WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL ECHONOUS'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID BY THE CUSTOMER FOR THE SOFTWARE THAT IS THE SUBJECT OF ANY THIRD-PARTY CLAIM.

16. **Termination.** Either Party may terminate this Agreement, effective on written notice to the other Party, if (i) the other Party materially breaches this Agreement, or (ii) either party becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law.

- (a) **Effect of Expiration or Termination.** Upon expiration or earlier termination of the Software Agreement, the license granted hereunder will also terminate, and Customer shall cease using the Software. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination, or entitle Customer to any refund.

Exhibit A

List of Third Party Software: Android – Google; iOS – Apple; DCMTK – OFFIS; Qualcomm Neural Processing SDK Qualcomm; Qualcomm Multimedia Video (MMV); Aculimages.

List of Open Source Software: LibPng; LibAums; OpenCV; SQLite; IoT Hub Java Device Client; IoT Provisioning Device Client; IoT Provisioning Security; Microsoft Azure Storage SDK for Android; Retrofit; Retrofit Converter Gson; Gson; RxJava; RxAndroid; OpenCL; LIBJPEG; Code Aur