



HIGH PRECISION 3D PRINTERS

A Prodways Group Company

GENERAL SALES CONDITIONS – SolidScape Product Line

PLEASE READ THE FOLLOWING TERMS CAREFULLY, AS PURCHASING, LICENSING AND/OR USING THE RELATED PRODUCTS, SOFTWARE, OR SERVICES INDICATES AGREEMENT WITH, AND ACCEPTANCE, OF THESE TERMS.

THESE ARE THE CURRENT TERMS AND CONDITIONS OF SALE (“TERMS”) OF SOLIDSCAPE, INC. (“SOLIDSCAPE”), WHICH APPLY TO ANY SALE OF SOLIDSCAPE PRODUCTS, LICENSING OF ACCOMPANYING SOFTWARE, AND/OR THE PROVISION OF SERVICES SOLD UNDER THE SOLIDSCAPE BRAND (THE TERMS “PRODUCTS”, “SOFTWARE” AND “SERVICES”, AS DEFINED BELOW). YOU, ON BEHALF OF YOURSELF AS AN INDIVIDUAL, YOUR EMPLOYER, OR ANOTHER ENTITY WHICH HAS NOT PREVIOUSLY ACCEPTED THESE TERMS (YOU AND SUCH ENTITIES, COLLECTIVELY, “CUSTOMER”), REPRESENT AND WARRANT THAT CUSTOMER HAS AUTHORITY TO ACCEPT, AND HAS READ, UNDERSTOOD AND AGREED TO, THESE TERMS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, ANY DOWNLOAD, ACCEPTANCE OR USE BY CUSTOMER OF ANY SOLIDSCAPE PRODUCTS, SOFTWARE, AND/OR SERVICES SHALL CONSTITUTE AN IRREVOCABLE ACCEPTANCE OF THESE TERMS. IF CUSTOMER DOES NOT AGREE TO BE BOUND BY THESE TERMS, THEN CUSTOMER SHALL PROMPTLY RETURN PRODUCTS, DELETE OR RETURN LICENSED SOFTWARE AND NOT USE ANY RELATED SERVICES. ALL RETURNS OR CANCELLATIONS ARE SUBJECT TO SOLIDSCAPE’S CURRENT RESTOCKING FEES.

**1. SALE AND PURCHASE; LICENSE**

**1.1. Products**

SolidScape agrees to sell to Customer, and Customer agrees to purchase, the system(s) (“System”), System parts (“Parts”), proprietary materials and/or other consumables (“Consumables”), and/or other ancillary products (collectively, the “Products”) and/or Services (as defined in Section 1.3 below) that are set forth in any purchase order or any other SolidScape-approved written purchase agreement tendered to SolidScape (each a “Purchase Order”), any and all of which shall be governed by these Terms, notwithstanding any conflicting or additional provisions in any such Purchase Order or other Customer communication. No purported waiver or other modification of these Terms will be effective unless, and only to the extent, specified by an express waiver or modification signed by an executive officer of SolidScape. All other proposed modifications or waivers (whether whole or partial) of these Terms are hereby objected to and rejected in all respects.

**1.2. Software and Documentation.**

If a Product includes the licensure of any SolidScape-provided software, which term shall include program code together with applicable technical documentation, containing specifications, instructions, and/or other information, accompanying such software or made available by SolidScape from time to time (collectively “Software”), SolidScape hereby grants to the Customer a non-exclusive, nontransferable, revocable, and limited license to use the Software for its internal purposes and solely in conjunction with the use of Product to which it relates. Customer acknowledges that the Software may also be subject to additional terms and conditions set forth in executable or electronic license agreements, which shall control and govern all such licensed Software use to the extent necessary to resolve any conflict with these Terms. Subject to the terms of such license agreements, all rights not expressly granted herein are reserved, and all other uses of the Software are subject to these Terms as well as the payment of any applicable Software license fees, including fees for specific Software functionalities, as identified by SolidScape in writing. The license to the Software is limited to the Software version delivered with the Product and expressly excludes any rights to or grant of a license to future Software releases or updates, unless so determined and granted by SolidScape in its sole discretion.

**1.3. Services**

From time to time, Solidscape, or its authorized distributors, agents or representatives may agree to offer and provide services related to the Products (“Services”) that are identified in a Purchase Order, and Customer agrees that such services are offered and provided at all times subject to, and in accordance with, these Terms. Notwithstanding the foregoing, certain Services, including support and maintenance services, may be offered under, and made subject to, additional terms or conditions in a separate agreement (the “Services Agreement”), which, on full execution, shall control and govern to the extent necessary to resolve any conflict with these Terms.

#### 1.4. Restrictions on Use

Customer agrees that it shall not directly or indirectly: (i) modify, enhance, adapt, translate, make improvements to, create derivative works based upon, disassemble, decompile, reverse engineer, reduce to any human or machine perceivable form, or circumvent any technological measure that controls access to or permits derivation of the source code of, the Software or any part thereof; (ii) reverse engineer the Products, any part thereof, or any composition made using the Products; (iii) rent, lease, sell, transfer, assign, or sublicense the rights granted hereunder, except in connection with the written authorized rental, lease, sale or transfer of the entire System by Solidscape; (iv) copy any part of the Software except for one (1) complete copy thereof for archival and/or back-up purposes, or as otherwise expressly authorized by Solidscape in writing; (v) change, distort, or delete any patent, copyright or other proprietary notices which appear in writing on or in a Product (or in any copies of Software); (vi) make or permit use of any trademark, trade name, service mark or other commercial symbol of Solidscape without its prior written consent; (vii) operate or make use of the Products in any way violative of applicable laws and regulations; (viii) take or permit any other action which could impair Solidscape’s rights, or damage the image or reputation of quality inherent in the Products, Solidscape’s business, reputation, Intellectual Property (defined below) or other valuable assets or rights, and/or (ix) reverse engineer or attempt to determine the chemical composition of Consumables. In the event Customer rents, leases, sells or otherwise transfers the Products to a third party, Customer agrees that it will require such third party to be bound by Paragraphs 1.2, 1.4, 8 hereof as a condition of such rental, lease, sale or other transfer. In the event that Customer violates the terms of this Section 1.4, as determined by Solidscape in its sole discretion, the warranty on the Product shall be null and void.

## 2. PAYMENT AND TAXES

#### 2.1. Cancellation Rights and Procedures

Customer may cancel or modify a pending Purchase Order only by giving written notice thereof to Solidscape within the earlier of (a) the date or time of shipment, or (b) three (3) business days after submission of the Purchase Order to Solidscape. Thereafter, Customer may not cancel or change any Purchase Order without Solidscape’s prior written consent. All returns or cancellations are subject to solidscape’s current restocking fees.

#### 2.2. Payments and Credit

Customer shall pay for the Products, Software and/or Services as and within the time frames or on or before the date(s) specified in the Purchase Order, and is not entitled to and shall not suspend payments, set off or otherwise deduct from any amounts invoiced by Solidscape. No rights to purchase Products on credit are conferred herein, and any extension, modification or withdrawal of credit and credit terms are reserved solely to Solidscape in its discretion. Except as otherwise agreed in the Purchase order, all payments are due in U.S. dollars.

#### 2.3. Remedies

In the event Customer is in default in the payment of any sum invoiced by Solidscape, then, without prejudice to Solidscape’s other rights and remedies: (a) all outstanding sums shall immediately become due and payable to Solidscape, notwithstanding any credit terms previously granted by Solidscape to the Customer; (b) Solidscape may delay or suspend delivery of Products, Software and/or Services hereunder, or cancel any existing, pending or new orders and/or agreements with the Customer; (c) Solidscape may retain any amount already paid to it by Customer; and (d) Solidscape may recover its reasonable attorney’s fees and other expenses incurred in enforcing its rights and remedies hereunder. Any amounts not paid by Customer when due shall bear interest at the rate of one and one-half percent (1.5%) per month or the highest legal rate of interest (whichever is lower).

#### 2.4. Taxes

All prices are exclusive of, and Customer shall pay, all applicable sales, use and other taxes or duties imposed, or otherwise due, on the sale, purchase or license of the Products, Software and/or Services, except for those taxes imposed upon Solidscape’s net income.

### 3. TITLE, DELIVERY AND RISK OF LOSS

#### 3.1. Transfer Terms

Delivery is made available Ex Works (Incoterms 2010) Solidscape's designated facility for international shipments, and FOB Merrimack New Hampshire for deliveries made within the United States, with respect to shipping costs, risk of loss and title transfer, except that no title transfer shall ever occur for any licensed Software associated with any Product sale. Notwithstanding delivery and the passage of risk and whether or not credit is extended for any Product purchase, the following shall apply:

##### 3.1.1.

If the applicable law (as determined according to Section 16 below) so permits, property in and title to Products shall remain with Solidscape, and shall not pass to Customer, until Solidscape has received payment of the full price and license fees (if applicable) for (a) all Products, Software and/or Services that are the subject of these Terms, and (b) all other goods and/or services supplied by Solidscape to Customer under any contract whatsoever. Payment of the full price and license fees shall include without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between Solidscape and Customer. Moreover, Customer shall keep the Products identified as retained until such retention lapses.

##### 3.1.2.

If the applicable law does not permit the arrangement described in Section 3.1.1 above, Solidscape hereby reserves in the Products (as well as all proceeds resulting from any sale thereof), and Customer grants and agrees that the Products shall remain fully subject to, a first priority purchase money security interest, until Solidscape has received payment of the full price and license fees (if applicable) for all the items listed in paragraphs (a) and (b) of Section 3.1.1. Payment of the full price and license fees shall include without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between Solidscape and Customer. Moreover, Customer hereby covenants that (i) no hindrance to its granting of the above security interest exists in any of its third party contracts; or (ii) in the event such a hindrance does exist, Customer shall assist Solidscape in exercising, and shall take all actions necessary to protect and maintain, such security interest.

#### 3.2. Delivery

Solidscape will attempt to cooperate with Customer's requested delivery dates or other related delivery requests but, cannot and does not warrant quoted shipment or delivery dates or time frames, and may fulfill ordered items by partial and incremental shipments, in its sole discretion. Customer acknowledges and agrees that all costs and obligations associated with shipment and delivery of Products shall be borne solely by Customer; that any insurance desired therefor shall be Customer's sole obligation and expense; and that in no event shall Solidscape be liable for any direct or indirect damage or loss that the Customer may incur resulting from any delivery failure or delay. Customer will notify Solidscape in writing within ten (10) calendar days following the date of delivery of any alleged Product defect or other Purchase Order discrepancies, and the Products and licensed Software shall be deemed to be accepted in the quantity specified on the bill of lading or commercial invoice and in good condition, and such acceptance will operate as a bar to claims against Solidscape, if no such notice is received.

### 4. INSTALLATION

Products that do not require installation by Solidscape may be installed by Customer and used at any time following delivery. Solidscape (or its authorized technical representative) will install those Products (including Software) or Parts designated as requiring installation by Solidscape or its authorized technical representative (such Products or Parts, "Solidscape Installed Products/Parts"), at Customer's designated facility following receipt of all applicable payments related thereto. Prior to such installation, Customer, at its expense, shall complete all applicable Product site preparations for installation, as specified by applicable Product documentation and as required by applicable law, including, without limitation, all health and safety laws, and shall thereafter provide such other assistance, services and facilities as may be requested by Solidscape (or its authorized technical representative) to complete such installation. Solidscape Installed Products/Parts shall not be handled, operated, opened, dismantled or used at any time prior to completion of required installation thereof, and then, initially in the presence and under the supervision of authorized Solidscape technical personnel. Where applicable and required by Solidscape, Solidscape (or its authorized technical representative) will perform a standard test of the Products and present a certificate of installation or installation report ("COI") upon completion of the required installation.

## 5. TRAINING

During any Product installation required to be performed by Solidscape (or its authorized technical representative), and in consideration for Customer's payment of charges due (unless otherwise specified in the Purchase Order acceptance), Solidscape shall make available to qualified personnel of Customer basic training in the use and operation of the Products according to the applicable Product documentation. Subsequent to any such required Product installation, Solidscape may offer and provide such training services from time to time, in its sole discretion.

## 6. PRODUCT WARRANTY

### 6.1. Model S390 Printer Printhead Warranty

All Solidscape S390 Model Printers are sold with a lifetime printhead warranty. This warranty is available only to the original owner of the S390 at the time of purchase. This warranty commences upon purchase by the original owner of a new S390 Model Printers non-transferable and terminates upon sale, transfer or other disposition of the Model S390 Printer.

In order for the lifetime printhead warranty to remain in effect, the printer must be continuously connected online to "Solidscape Connect" and all proper operational, maintenance, and environmental guidelines must be followed according to Installation instructions and User Manual guidance. Failure to connect the printer or to follow the guidelines will void the lifetime printhead warranty.

At 3 years after purchase or 12,000 system operating hours (whichever comes first) the S390 Printer must be recertified by an authorized Solidscape technician. The recertification visit is at the Customer's cost. The recertification includes a complete system inspection, component replacement (including, but not limited to motors, heated lines, etc.) and recalibration and system adjustments. If recertification is not performed or is declined, the Model S390 Printer lifetime printhead warranty will terminate. The lifetime printhead warranty may be reactivated upon recertification.

Only Solidscape or Authorized Solidscape Partners are and will be certified to perform the recertification process. Authorized Solidscape reseller's parts, travel and labor costs are determined in their sole discretion and will vary from reseller to reseller. The limited lifetime printhead warranty is subject to the terms and conditions of this Section 6 and to the other Terms contained herein.

### 6.2. Limited Warranty and Warranty Period

Solidscape warrants its systems and associated peripheral devices and replacement parts (collectively, the "Product") purchased from Solidscape or an Authorized Solidscape Reseller to be free from defects in material and workmanship according to the terms and conditions stated below:

Warranties extend only to the original purchaser of the Product. Your sole remedy as purchaser under this Limited Warranty shall be repair or replacement as provided herein. This Warranty expressly does not apply to accessories, and/or consumables.

To preserve your warranty rights, Products must be installed in accordance with the then-current User Guide. During the Limited Warranty period, Solidscape or its designated representative will, at their option, repair or replace a defective Product as set forth below. Service Parts and replacement Products will be furnished on an exchange basis and will be either new or refurbished. All replaced parts or replaced Products become the property of Solidscape, and you will be invoiced for replacement parts if defective parts are not returned as directed by Solidscape under this Limited Warranty.

Solely during the then-current standard limited Solidscape warranty period applicable to the System, Software, Parts, Consumables, and Services, which periods (if any) are expressly identified in the Product literature, the Purchase Order, the Services Agreement and/or, in the case of Consumables, on the label attached thereto (each such period, as applicable, the "Warranty Period"), Solidscape warrants as follows: (a) the System (excluding the Software), Parts and/or Consumable shall be free from defects in materials and workmanship; (b) the Software shall perform substantially in accordance with its published documentation, and (c) the Services shall be performed in a professional and workmanlike manner. The Warranty Period commences on the earlier of the date of installation of the Products, as evidenced by a COI, or the date which is ninety (90) days after the date the Product is shipped from the designated point of shipment, e.g. Solidscape factory.

### 6.3. Limited Warranty Remedies

In respect of a valid warranty claim under Section 6.2 above, Solidscape, as its sole obligation and as Customer's sole remedy hereunder shall (A) in the case of the System (excluding Software), a Part, or Consumable, either repair or replace, at Solidscape's sole option, any such System, Part or Consumable with a new or refurbished conforming System, Part or Consumable, as determined by Solidscape in its sole discretion, provided that (i) Solidscape, in its discretion, shall be

entitled to re-acquire (at no cost to Solidscape except as expressly provided in clause (ii) below) the ownership of any such defective System, Part or Consumable that has been replaced; (ii) at Solidscape's request and cost and expense, Customer shall return to Solidscape any such replaced System, Part and/or Consumable within thirty (30) days; and (iii) Solidscape will be entitled to invoice the Customer for any such items not returned within this time period; (B) in the case of the Software, make commercially reasonable efforts to resolve inconsistencies between the functionality of such software and its published specifications; and (C) in the case of Services, as (and if) expressly set out in the applicable Services Agreement.

#### 6.4. Exclusion of Warranties

Solidscape's limited warranty obligations hereunder shall terminate and shall not apply in any case where any alleged Product failure or other breach of warranty was necessitated or caused in whole or in part by: (i) catastrophe, fault or negligence of the Customer; (ii) operation or use of the Products in violation of applicable laws or regulations; (iii) improper or unauthorized use including, without limitation, use prior to receipt of a COI (where applicable); (iv) use of any third party materials, printing heads or Parts, other than those that have been pre-tested and pre-authorized by Solidscape in writing; (v) installation, modification or repair other than by Solidscape or its authorized technical representatives; (vi) removal of the Products from the original installation site, unless otherwise expressly authorized by Solidscape in writing; (vii) unusual stress; (viii) power failure; (ix) deviation from Solidscape's recommended maintenance procedures; or (x) failure to maintain the prescribed environmental or other conditions at the installation site or any other failure to comply with applicable Product instructions and/or documentation.

In addition to the above, no coverage or benefits under this Limited Warranty will exist if any of the following conditions apply:

- (a) The Product has been subjected to abnormal use, improper or inadequate maintenance, unauthorized modifications, unauthorized repair, misuse, abuse, exposure to moisture, flooding, fire, electrical problems associated with incoming power, or other acts which are not the fault of Solidscape, Inc.
- (b) Solidscape's Customer Service Department was not notified of the defect or malfunction of the system prior to expiration of the warranty period.
- (c) Parts or consumables were installed and used that were not certified or approved by Solidscape.
- (d) To the extent allowed by applicable law, the Product has been removed from the country or region where it was originally sold or installed by Solidscape or an authorized Solidscape Reseller or Representative.

#### 6.5. WARRANTY DISCLAIMER.

THE WARRANTIES SET FORTH IN THIS SECTION 6 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY (INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT). SOLIDSCAPE DISCLAIMS THAT THE OPERATION OF SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT THE FUNCTIONS THEREIN WILL MEET OR SATISFY THE CUSTOMER (OR USER'S) REQUIREMENTS OR INTENDED USE. THE REMEDIES PROVIDED IN SECTION 6 SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OF SOLIDSCAPE TO CONFORM WITH SUCH LIMITED WARRANTY, AND CUSTOMER SHALL HAVE NO CLAIM, EXCEPT AS AFORESAID, AGAINST SOLIDSCAPE OR ANY OTHER MANUFACTURER, SUPPLIER OR LICENSOR OF THE PRODUCTS, SOFTWARE OR RELATED SERVICES, WHETHER BASED IN CONTRACT, TORT, PRODUCT OR OTHER STRICT LIABILITY, TRADE PRACTICES, OR OTHERWISE. REPAIR OR REPLACEMENT OR REFUND (AS ELECTED BY SOLIDSCAPE) IN THE MANNER PROVIDED ABOVE SHALL CONSTITUTE FULFILLMENT OF ALL LIABILITIES OF SOLIDSCAPE WITH RESPECT TO ITS LIMITED WARRANTY, AS WELL AS FOR ANY CLAIMS BASED ON OR RELATING TO THE QUALITY AND PERFORMANCE OF THE PRODUCTS. CUSTOMER IS SOLELY RESPONSIBLE IN ALL CASES FOR SELECTION OF THE PRODUCT(S), SOFTWARE AND SERVICES TO ACHIEVE CUSTOMER'S INTENDED RESULTS OR FOR CUSTOMER'S PARTICULAR APPLICATIONS.

#### 6.6. Use of Non-Certified Parts and Consumables.

Use of parts and consumables not manufactured or certified by Solidscape can result in damage to Products. In the event Solidscape reasonably determines that damage to a Product was caused by the use of non-Solidscape-manufactured or non-Solidscape-certified Parts and/or Consumables, Solidscape reserves the right to: (1) void Customer's warranty rights, (2) terminate Customer's post-warranty support and maintenance contract; and/or (3) offer to diagnose and repair the Product or its components at Solidscape's then current maintenance restoration rates. Use of non-Solidscape-manufactured or non-Solidscape-certified Parts and/or Consumables may also disqualify Customer from receiving discounts on Solidscape support and maintenance services, Parts and Consumables.

#### 6.7. Product Discontinuation.

Solidscape shall provide: (i) reasonable inventories of Parts for broken or defective Systems for the greater of (A) a six (6) month period after the date Solidscape discontinues the sale and supply of such Systems (“Discontinuance Date(s)”); or (B) such period as is otherwise required by applicable laws and regulations; and (ii) support and maintenance services for discontinued Systems and Software.

## **7. LIMITATION OF LIABILITY. TO THE FULLEST EXTENT PERMITTED BY LAW**

### **7.1. Limitation of Direct Damages**

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, INCLUDING WITHOUT LIMITATION ANY CLAIM FOR INDEMNIFICATION BY SOLIDSCAPE, IN NO EVENT SHALL SOLIDSCAPE, OR ITS AFFILIATES, MANUFACTURERS, SUPPLIERS OR LICENSORS (AS THIRD PARTY BENEFICIARIES) BE LIABLE FOR DIRECT DAMAGES OR OTHER LOSSES OR LIABILITIES DIRECTLY RELATING TO THE PRODUCTS, SOFTWARE OR SERVICES OR OTHERWISE ARISING OUT OF, RELATED TO, OR IN ANY WAY CONNECTED WITH THE SAME INSTALLATION OR OTHER USE OF PRODUCTS OR THE PROVISION OF SERVICES, IF AND TO THE EXTENT SUCH DIRECT DAMAGES OR LOSSES EXCEED THE ACTUAL AMOUNT PAID BY CUSTOMER FOR THE SPECIFIC PRODUCT(S) OR RELATED SERVICES THAT DIRECTLY GAVE RISE TO THE DAMAGES OR OTHER LOSSES OR LIABILITIES CLAIMED (PROVIDED THAT FOR ANY SERVICES, THE AMOUNT SHALL BE LIMITED TO THE AMOUNT PAID FOR SAID SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO BRINGING THE CLAIM), REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, EXPRESS OR IMPLIED WARRANTY, TORT, PRODUCT OR OTHER STRICT LIABILITY, TRADE PRACTICES, OR OTHERWISE, AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

### **7.2. EXCLUSION OF CERTAIN DAMAGES**

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL SOLIDSCAPE OR ITS AFFILIATES, MANUFACTURERS, SUPPLIERS OR LICENSORS (AS THIRD PARTY BENEFICIARIES) BE LIABLE FOR ANY LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF CONTRACTS, LOSS OF THE USE OF MONEY, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS, LOSS OF OPPORTUNITY, LOSS OF GOOD WILL, LOSS OF REPUTATION, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA; OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, PUNITIVE, OR OTHER SIMILAR DAMAGES OF ANY KIND, WHETHER FORESEEABLE OR UNFORESEEABLE, EVEN IF IT IS MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER BASED IN CONTRACT, EXPRESS OR IMPLIED WARRANTY, TORT, PRODUCT OR OTHER STRICT LIABILITY, TRADE PRACTICES, OR OTHERWISE, AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

### **7.3. Limitation of Actions**

Any action against Solidscape relating to any alleged breach of warranty or any other alleged Product failure, must be brought within twelve (12) months after the cause(s) of action accrue(s).

## **8. PROPRIETARY RIGHTS**

### **8.1. Intellectual Property**

Customer acknowledges that Solidscape is the sole owner of all Intellectual Property (as defined below) and trade secrets that relate to the Products and the use thereof. No right or license in Intellectual Property is granted to Customer by implication, estoppel or otherwise other than that expressly set forth herein or in other written documentation provided by Solidscape. Except as required by law or as set forth in other written documentation provided by Solidscape, (a) Intellectual Property directed to all or part of a Product is licensed only upon purchase of the Product from Solidscape or its approved seller and only for use of the specific Product so purchased; (b) Intellectual Property directed to a combination of Products (such as a System and Consumables) is licensed only upon purchase of the entire combination from Solidscape or its approved seller and only for use of the combination of specific Products so purchased; (c) Intellectual Property directed to a method of using a Product is licensed only upon purchase of the Product from Solidscape or its approved seller that necessarily performs the method and only for use in connection with the specific Product so purchased; and (d) Intellectual Property directed to a method of using a combination of Products (such as a System with Consumables) is licensed only upon purchase of the entire combination from Solidscape or its approved seller that collectively necessarily perform the method and only for use in connection with the combination of specific Products so purchased. “Intellectual Property” shall mean any and all Solidscape copyrights, patents, trademarks, trade names, logos, Software, documentation, technical and manufacturing techniques, concepts, methods, designs, specifications and other proprietary information relating to the Products. Notwithstanding any other provision of these Terms, any use herein of the terms “sale” or “purchase”, or a similar term in connection with the Software, shall only refer to a “license in accordance with these Terms” of such Software.

## 8.2. Grant of license

Customer hereby grants to Solidscape a fully paid-up, royalty-free, worldwide, non-exclusive, irrevocable, transferable right and license in, under, and to any patents and copyrights enforceable in any country, issued to, obtained by, developed by or acquired by Customer that are directed to 3D printing equipment, the use or functionality of 3D printing equipment, and/or compositions used or created during the functioning of 3D printing equipment (including any combination of materials, such as combinations relating to multi-material mixing, color dithering or geometrical material-mixture structure of the material) that is developed using the Products and that incorporates, is derived from and/or improves upon the Solidscape Intellectual Property and/or trade secrets. Such license shall also extend to Solidscape's customers, licensors and other users of Solidscape products in connection with their use of Solidscape products.

## 9. CONFIDENTIALITY

Customer agrees to hold all confidential or proprietary information (including, without limitation, technology, software, ideas, know-how, processes, specifications, technical data, configurations, algorithms and trade secrets) which is disclosed by Solidscape (collectively, "Confidential Information") in strictest confidence, and agrees not to use any Confidential Information for any purpose outside the purchase, sale and use of Products, and not to disclose the Confidential Information to any third party, except to those employees of Customer who are bound by written restrictions at least as protective of Solidscape's Confidential Information as those provided herein, and who must be given access to the Confidential Information solely to use the Products in accordance with these Terms. Upon execution of a non-disclosure agreement satisfactory to Solidscape, its Confidential Information may also be disclosed to Customer's consultants who have been retained to perform services in connection with the Products, provided that Customer shall remain liable for any breach of such agreement, or damage or loss incurred as a result of such breach, by any such consultants.

## 10. INDEMNITY

Customer shall defend, indemnify, and hold harmless Solidscape and its affiliates, and their employees, officers, and directors, against any claim, suit or proceeding arising out of or relating to any Exclusions; provided that Customer shall not settle any claim or enter into any agreement that affects Solidscape's rights or interests without Solidscape's prior written consent; and that if Customer does not diligently defend against such claim, suit, or proceeding, Solidscape shall be entitled to obtain its own legal counsel to direct the defense thereof at Customer's sole cost and expense.

## 11. INSURANCE

Customer will obtain and maintain adequate liability insurance on the Products against loss or damage from any external causes, with Solidscape named as an additional insured under all such policies.

## 12. EXPORT COMPLIANCE.

Customer shall comply with all applicable laws, rules, and regulations with respect to, but not limited to, the use of the Product. In addition, Customer expressly agrees to abide by all applicable foreign trade/export restrictions or similar rules as stated herein or referred to herein. Customer shall not transfer, export or re-export any Product (including any Software, Part, or consumable) or any related technology except in full compliance with all applicable export controls administered by the United States of America and other countries, as well as any applicable import and use restrictions, which laws, regulations, controls and restrictions may change from time to time. Without limiting the generality of the foregoing, Customer shall not transfer, export or re-export such items to anyone on the U.S. Treasury Department's list of Specially Designated Nationals; the U.S. Commerce Department's Denied Persons List or Entity List; or any lists maintained by the U.S. Office of Foreign Assets Control and the U.S. Department of Homeland Security, which lists may be revised from time to time, or for any use in chemical or biological weapons, sensitive nuclear end uses, missiles, etc. Customer represents it is not located in, under control of, or a national or resident of any country on any such list. Customer shall be solely responsible for determining compliance and obtaining all required approvals to facilitate the export of any products or technologies, including outside of the U.S., and Solidscape shall be under no obligation to notify Customer of any changes or updates to any laws, regulations, controls, restrictions or lists contemplated hereby. Customer shall immediately inform Solidscape of any trade/export restrictions, which may impact Solidscape's compliance with internationally respected legislation, rules, protocols, advice or recommendations relating to trade/export restrictions. For clarity, in the event of any conflict between legislation of local origin and of U.S. origin, legislation of U.S. origin will prevail unless prohibited by mandatory legislation of local origin.

## 13. US GOVERNMENT USE.

If Customer is part of an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Product or Software is further restricted in

accordance with the Federal Acquisition Regulations as applied to civilian agencies, and the Defense Federal Acquisition Regulation Supplement as applied to defense and military agencies, for “commercial items,” “commercial computer software” and “commercial computer software documentation.” In accordance with such provisions, any use thereof by the Government shall be governed solely by these Terms.

#### **14. NOTICES.**

All notices and communications between the parties shall be in writing and addressed and sent by: (i) email where delivery is verifiable by automated receipt; (ii) facsimile, where delivery is verifiable by automated delivery receipt; or (c) by national or international overnight courier service where delivery receipt is provided to the addresses set forth in the Purchase Order, or to such other replacement addresses as may be provided from time to time by each party by written notice given in accordance with this Section 14. Any notice to Solidscape shall be to the attention of CEO or other authorized contact identified in the applicable Purchase Order acknowledgment. Notice shall be deemed to have been duly received by a party as of the date such notice was delivered in accordance with any of the methods prescribed herein.

#### **15. ENTIRE AGREEMENT**

These Terms: (i) constitute the entire agreement and understanding between the parties regarding the terms of each Product sale, and supersede all prior and contemporaneous representations, promises, statements, agreements and understandings, written or oral, regarding the subject matter hereof; and (ii) may only be modified and/or waived by a written agreement executed by both parties. Notwithstanding the foregoing, these Terms may be modified by Solidscape from time to time and in its discretion, by delivery of replacement Terms to Customer, and by posting such then-current Terms on Solidscape website [[<http://www.Solidscape.com/privacy/terms-and-conditions.aspx>]].

#### **16. JURISDICTION.**

These Terms shall be governed by and construed under the internal laws of the State of New Hampshire, USA, without reference to its choice of law rules; and Customer irrevocably consents to the exclusive jurisdiction and venue of the applicable federal or state courts located in the State of New Hampshire, and agrees to file any action brought by it hereunder only in the competent federal and/or state courts located in such county. Customer irrevocably waives any personal, subject matter, inconvenient forum or other objections thereto. Notwithstanding the foregoing, Customer also hereby consents to the jurisdiction of any court(s) of competent jurisdiction in which Solidscape seeks equitable or injunctive relief for the breach of any of these Terms and in all cases waives any applicable right to a jury trial. Customer shall be liable for all costs incurred by Solidscape (including attorneys’ fees or other costs) in connection with the collection of any past due amounts owed by Customer. The United Nations Convention for the Sale of Goods shall not apply to any transaction hereunder.

#### **17. GENERAL.**

The parties hereto are independent contractors, and nothing herein shall be construed as creating a partnership or granting the right to bind the other. Customer may not assign or transfer these Terms or the rights granted hereunder, except with Solidscape’s prior written consent. Subject to the foregoing, Customer’s rights or obligations under these Terms shall be binding upon and inure to the benefit of each party’s respective permitted successors and assigns. Designated third-party beneficiaries may also enforce the Terms relating to their rights. Solidscape reserves the rights to terminate and revoke these Terms and terminate its relationship with Customer at any time following Customer’s breach of any of these Terms, and such termination shall be effective immediately upon written notice thereof to Customer. Upon termination for any reason, Customer shall immediately cease use of any Software not embedded within the Systems, delete or destroy all copies in its possession, including that which may have been provided to contractors or consultants, and execute and deliver to Solidscape a certification evidencing same. The unenforceability of any provision of these Terms adjudged by any court of competent jurisdiction shall in no way affect the enforceability of any other provision hereof, which shall remain in full force and effect. Any failure by either party to exercise any right or remedy under the Terms does not constitute a waiver, or signify acceptance, of the event giving rise to such right or remedy. Any waiver or other alleged modification or amendment by Solidscape of any provision of these Terms must be in writing and signed by an authorized officer of Solidscape to be valid. Provisions which by their nature should survive termination of the parties’ business relationship and any agreements between or among them, including, but not limited to, Sections 1.4 (Restrictions on Use), 2 (Payment and Cancellation), 3.1 (Transfer Terms), 6 (Product Warranty“), 7 (Limitation of Liability), 8 (Proprietary Rights), 9 (Confidentiality), 10 (Indemnity) and 12 (Export Compliance) through 17 (General) shall so survive indefinitely. To the extent that these Terms are accepted electronically, Customer hereby waives any applicable rights to require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent not prohibited under applicable law.