

PRODUCT TERMS AND CONDITIONS

LAST UPDATED: August 25, 2025

PLEASE READ THESE PRODUCT TERMS AND CONDITIONS CAREFULLY BEFORE USING ANY SPECTRA PRODUCTS OR SERVICES.

The Agreement

Your Quote, together with these Product Terms and Conditions (the “Product Terms”) are, collectively, your agreement for the purchase and/or license of Spectra Products (the “Agreement”). By signing the Quote or otherwise accepting the Quote in accordance with these Product Terms, the Quote becomes an Order. Capitalized terms in this Agreement have the meanings in Exhibit A or in the Section in which they first appear in these Product Terms.

This Agreement constitutes a legally binding contract and governs any Spectra Products sold or licensed by Spectra Logic Corporation, a Delaware corporation with offices located at 6285 Lookout Road, Boulder, CO 80301 USA or its Affiliates (collectively, “Spectra”), and Customer, as identified in the Quote. References to “Spectra” in this Agreement means the Spectra Affiliate listed on the Quote.

Acceptance of this Agreement

The Effective Date of this Agreement is date that Customer accepts the Quote. By signing the Quote, issuing a Purchase Order, otherwise indicating acceptance of the Quote, allowing delivery of a Spectra Product or accessing or using any Spectra Product, Customer is accepting and agreeing to be bound by this Agreement. If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind that entity to the terms and conditions of this Agreement. In such a case, “Customer” refers to that entity and any Affiliates if noted on the Quote. **If you do not agree to the terms on the Quote or these Product Terms, do not sign the Quote, send a Purchase Order or otherwise accept a Quote and do not access or use any Spectra Product.**

This Agreement prevails over any of Customer's terms and conditions of purchase regardless of whether or when Customer has submitted its Purchase Order or other similar document. Fulfillment of Customer's order does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend this Agreement.

Existing Agreement

If Customer has an existing formal written agreement with Spectra governing the Spectra Products provided by Spectra in the Quote, the terms in that agreement will supersede any contrary terms in these Product Terms.

Spectra Products Purchased From Authorized Resellers

If Customer purchases Spectra Products from an Authorized Reseller, these Product Terms will govern the provision and Customer's use of Software, Support Services, Professional Services and Subscription Services. However, these Product Terms do not cover payment obligations. Customer's payment obligations for the Spectra Products will be as agreed directly by Customer and the Authorized Reseller. Renewals of Subscription Software, Support Services and Subscription Services may be agreed by Customer directly with Spectra.

1. **DEFINITIONS.** Capitalized terms have the meanings in Exhibit A or in the Section in which they first appear in these Product Terms.
2. **SCOPE.** These Product Terms set forth the terms governing the following: (a) the sale of Hardware, Parts, Accessories and Spectra Certified Media; (b) the licensing of Software; (c) the provision of Professional Services; (d) the provision of Support Services; and (e) the provision of Hybrid Solutions. Customer is responsible for determining which Spectra Products best meet its needs. All or part of the Spectra Products sold or licensed under this Agreement may be provided by an Affiliate of Spectra.

3. PURCHASE AND SALE OF SPECTRA PRODUCTS

3.1 ORDERS.

- (a) Quotes. Each Quote expires thirty (30) calendar days following the date of the Quote unless otherwise set forth on the Quote (the “Effective Period”). Spectra, in its sole discretion, may extend the expiration date of the Quote.
- (b) Purchase Prices. During the Effective Period, the Purchase Prices are subject to increase due to changes in components, configurations, tariffs, duties and/or trade policies. If Professional Services are being performed on a time and materials basis, any Purchase Price included on a Quote is an estimate only. All Purchase Prices are quoted in US Dollars; any Purchase Price quoted in a currency other than US Dollars is an estimate only. Purchase Prices do not include Taxes or Freight Fees, which are the responsibility of Customer and while they may not be included on the Quote, they will be determined at the time of invoice.
- (c) Acceptance. An accepted Quote is referred to as an “Order.” Customer accepts a Quote by signing the Quote, issuing a Purchase Order, otherwise indicating acceptance of the Quote (such as an email accepting the terms), allowing delivery of a Spectra Product or accessing or using any Spectra Product. If Customer accepts a Quote following the expiration date, that Order will be effective and form part of this Agreement unless Spectra notifies Customer that the Order is rejected.
- (d) Orders. All Orders are subject to final review and acceptance by Spectra. Spectra reserves the right, in its sole discretion, to reject any Order without penalty and for any reason.
- (e) Customer Purchase Orders. If it is Customer’s practice to issue Purchase Orders, Customer must do so at the same time it accepts the Quote. Customer waives, and Spectra rejects, any additional or inconsistent terms included on Customer’s Purchase Orders, vendor forms, supplier registration portal(s), or otherwise submitted or referenced by Customer, and those terms will not apply to Spectra or any Spectra Products. If any terms and conditions in a Quote are inconsistent with these Product Terms, the terms and conditions in the Quote will govern.

3.2 **CHANGES TO ORDERS**. Customer may request changes to any Order up to thirty (30) days prior to the scheduled date of Delivery, including, without limitation, changes to the shipping or packaging instructions, increases in the quantity of Spectra Products and schedules for the delivery of Spectra Products. However, Customer may not cancel the Order. Spectra will notify Customer if any requested change causes an increase or decrease in the Purchase Price, Freight Fees or delivery schedule of the Spectra Products, and the parties will agree in writing upon any equitable adjustments to the price and schedule of the Order.

3.3 **REGULATORY APPROVAL**. Customer understands that each Order may be subject to regulatory review. Notwithstanding anything to the contrary in this Agreement, Spectra reserves the right to reject or terminate any Order upon notice via e-mail and without penalty if Spectra, in its sole discretion, determines that it is prohibited by law from fulfilling the order.

3.4 **CANCELLATION**. Spectra reserves the right to cancel any Order and/or refuse or delay delivery of Spectra Products, if:

- (a) Customer fails to make any payment as provided in this Agreement or under the terms of payment applicable to any Order;

- (b) Customer fails to meet reasonable credit or financial requirements established by Spectra, including any limitations on allowable credit;
 - (c) Customer otherwise fails to comply with the terms and conditions of this Agreement; or
 - (d) circumstances prevent Spectra from shipping any order by the requested delivery date.
- 3.5 **NEW PRODUCTS.** All Spectra Products sold as “new” are either: (a) new and unused; or (b) remanufactured to be equivalent to new in appearance and performance.
- 3.6 **THIRD-PARTY PRODUCTS.** Third-Party Products are subject to the terms of use accompanying the product or otherwise distributed by the third-party. Third-Party Product documentation may be available at www.spectralogic.com. Spectra makes no representations or warranties regarding Third-Party Products and has no obligation to Customer for the support or maintenance of any Third-Party Product. See Section 6.9 for additional terms regarding third-party components and software.

4. FULFILLMENT

- 4.1 **PACKAGING AND LABELING.** Where applicable, Spectra will pack, mark and ship Spectra Products in accordance with applicable law and industry standards and will provide Customer with shipping documentation showing the order number, Spectra's identification number for the subject Spectra Products, the quantity of items in the shipment, the number of cartons or containers in shipment, Spectra's name, the bill of lading number and the country of origin.
- 4.2 **SHIPPING ARRANGEMENTS.** Spectra will arrange for shipment of Hardware, Accessories and Spectra Certified Media and will select the method of transportation and the carrier, in its reasonable discretion, unless Customer notifies Spectra in writing at least five (5) business days prior to the scheduled shipment date that Customer elects to use its own carrier. In such case, Customer is responsible for coordinating with the designated carrier and ensuring timely pickup consistent with Spectra's shipping schedule. Customer must provide Spectra with all information needed for the shipment of Spectra Products at least two (2) business days prior to the scheduled date of shipment, except when shipping is via FCA (see Section 4.4(a)) in which case Customer must arrange for all required licenses before providing a date of shipment and provide Spectra with all information needed for shipment at least five (5) business days prior to the date of shipment.
- 4.3 **FREIGHT FEES.** Regardless of which party arranges for shipping, Customer is responsible for all transportation fees as well as customs clearance in the destination country and any customs fees, duties and taxes and shipping insurance (collectively, “Freight Fees”). Freight Fees are not included in the Purchase Price for the Spectra Products and will be displayed as a separate line item on the Quote and invoice. The estimated Freight Fees may be included on the Quote; however, Freight Fees vary based on destination, Shipping Term, Shipping Method and Special Shipping Instructions and may fluctuate due to fuel and other costs. Customer understands and agrees that the applicable Freight Fees will be calculated on the date of shipment and included on the invoice; Customer agrees to pay the invoice in accordance with Section 10.4.
- 4.4 **DELIVERY TERMS AND RISK OF LOSS.**
- (a) Hardware, Parts, Accessories and Spectra Certified Media.
 - (i) Shipping Term and Delivery. If Spectra arranges shipping, the Spectra Products will ship in accordance with the following Incoterms (Incoterms 2020, as published by the International Chamber of Commerce) based on the delivery destination:

- For shipments within the United States: CPT with the Delivery Point at Origin (Spectra's facility in Boulder, CO) and Destination at Customer's location. Delivery occurs when Spectra delivers the Spectra Products to the carrier at the Delivery Point.
 - For shipments to Australia, Canada, EU (excluding Switzerland) and UK: DDP Customer's location but with VAT deferred, where applicable. Delivery occurs when the Spectra Products are delivered to Customer's location.
 - For shipments to Switzerland and all other destinations not listed above: DAP Customer's location. Delivery occurs when the Spectra Products are delivered to Customer's location after Customer has arranged for import customs clearance including payment of duties, taxes and other related costs.
 - If Customer arranges shipping: FCA Origin (Spectra's facility in Boulder, CO). Delivery occurs when Customer's carrier picks up the Spectra Products from Spectra's facility in Boulder, CO.
- (ii) Title, Risk of Loss and Acceptance. Title (excluding all Intellectual Property Rights) and risk of loss in and to the Hardware, Parts, Accessories and/or Spectra Certified Media passes to Customer on Delivery. Hardware, Parts, Accessories and/or Spectra Certified Media are deemed to be accepted by Customer upon Delivery. However, any Defects in the Hardware, Parts, Accessories and/or Spectra Certified Media may be covered by the limited warranty set forth in the Limited Warranty available at <https://spectralogic.com/limitedwarranty/>.
- (iii) Security Interest. As collateral security for the payment of the Purchase Price of the Hardware, Parts, Accessories and Spectra Certified Media, Customer grants to Spectra a lien on and security interest in and to all of the right, title and interest of Customer in, to and under the Hardware, Parts, Accessories and/or Spectra Certified Media, wherever located, and whether now existing or arising later or 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. The security interest granted under this Section constitutes a purchase money security interest under the Colorado Uniform Commercial Code.
- (b) Software.
- (i) Delivery. Spectra will deliver Software pre-installed on Hardware or via electronic download. Spectra will notify Customer by email when the Software is available for download by Customer from the designated site. That email will also include license keys, instructions on how to download and install the Software. Customer will have fourteen (14) days from the date of notification to download the Software. If Customer is unable to download the Software or fails to download the Software within the 14-day period, Customer must notify Spectra immediately. Once the Software is installed, upgrades to Software, including additional Software capabilities, may be provisioned by Spectra remotely and accessed by Customer via a license key sent via email. Delivery of Software preinstalled on Hardware occurs on Delivery of the Hardware. Delivery of Software made available for electronic delivery occurs when the notification email is sent.
- (ii) Title and Acceptance. All right, title and interest in and to the Software, including any enhancements, modifications or derivatives, remains with Spectra, including all Intellectual Property Rights. Spectra grants to Customer a license to use the

Software as set forth in Section 6. All Software is deemed to be accepted upon Delivery. However, any Defects in the Software may be covered by the limited warranty set forth in the Limited Warranty available at <https://spectralogic.com/limitedwarranty/>.

(c) **Documentation.** Spectra will deliver the Documentation via electronic mail and/or make it available online at www.spectralogic.com. All right, title and interest in and to the Documentation, including any enhancements, modifications or derivatives, remains with Spectra, including all Intellectual Property Rights.

4.5 **TIME OF DELIVERY.** Any delivery date set forth in a Quote is an estimate only. Spectra will not be liable if it does not deliver a Spectra Product on or before the delivery date set forth in the Quote. All Spectra Products are deemed to be accepted upon Delivery. Notwithstanding this acceptance, Customer retains all rights and remedies under the Limited Warranty.

4.6 **CUSTOMER'S ACTS OR OMISSIONS.** If Spectra's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Spectra will not be in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer.

5. **HARDWARE, PARTS, ACCESSORIES AND SPECTRA CERTIFIED MEDIA.** The terms in this Section 5 apply to Hardware, Parts, Accessories and Spectra Certified Media.

5.1 **ENVIRONMENTAL SPECIFICATIONS.** The required operating environment and specifications for Hardware are set forth in the Documentation, as same may be revised by Spectra from time to time.

5.2 **SPECTRA CERTIFIED MEDIA.** Hardware is designed to work with Spectra Certified Media. To achieve the full functionality of the Hardware, Spectra Certified Media must be used. Spectra Certified Media is subject to the Spectra Certified Media Guarantee available at <https://spectralogic.com/mediaguarantee/>.

5.3 **TAPE LIBRARY GRAPHIC WRAPS.** If Customer purchases a decorative or custom graphic wrap for Hardware that is a tape library, Customer must provide Spectra with artwork that complies with Spectra's specifications ("Customer Artwork"). Customer grants to Spectra a license to use the Customer Artwork in Section 12.3.

5.4 **COMPLIANCE WITH WEEE DIRECTIVE AND OTHER EQUIPMENT DISPOSAL REQUIREMENTS.** To the extent required by applicable law, Customer assumes all responsibility for compliance with regulations governing the disposal of electric and electronic equipment where Customer is located. This includes the WEEE Directive if Customer is located within the European Union. Without limiting the foregoing, Customer will ensure proper collection, treatment, recovery and environmentally sound disposal of applicable Hardware, Parts and Accessories at end-of-life. Customer will indemnify and hold harmless Spectra from and against any fines, penalties, costs, or claims arising out of or related to Customer's failure to comply with these obligations or under applicable law.

6. **SOFTWARE.** The terms in this Section 6 apply to Software.

6.1 **LICENSE MODELS.** Spectra licenses Software on a perpetual or subscription (term) basis. The License Model is set forth in the Quote.

6.2 **LICENSE TERM.** The Initial License Term is set forth in the Quote. The Initial License Term will begin as follows:

- If the Software is preinstalled on Hardware and Spectra is providing installation services for the Hardware: upon completion of the Hardware installation;
- If the Software is preinstalled on Hardware and Spectra is not providing installation services for the Hardware: upon shipment of the Hardware
- If the Software is not preinstalled on Hardware and Spectra is providing installation services for the Software: upon completion of the Software installation.
- If the Software is not preinstalled on Hardware and Spectra is not providing installation services for the Software: On the date of Delivery of the Software as described in Section 4.4(b)

6.3 **RENEWALS OF SUBSCRIPTION SOFTWARE.** With respect to Subscription Software, upon expiration of the Initial License Term or any Renewal License Term, the subscription will automatically renew for successive twelve (12) month periods unless either Spectra or Customer gives the other party written notice of non-renewal at least thirty (30) days prior to the expiration of the then current License Term. Spectra will invoice Customer for the Purchase Price for any Renewal License Term prior to the expiration of the current License Term, and Customer agrees to the invoice in accordance with Section 10.4. The Purchase Price for each Renewal License Term will be Spectra's then-current standard Purchase Price for the Subscription Software. **FOR CUSTOMERS PURCHASING THROUGH AN AUTHORIZED RESELLER:** Spectra may invoice the Authorized Reseller for the Purchase Price for the Renewal instead of invoicing Customer directly. Customer is obligated to pay the applicable amounts to the Authorized Reseller or Spectra.

6.4 **SUPPORT SERVICES.** Support Services are included in the Purchase Price for Subscription Software. For Software licensed on a perpetual basis, Support Services must be purchased separately.

6.5 **LICENSE GRANT.** Subject to and conditioned on Customer's payment of the Purchase Price and compliance with all terms and conditions of this Agreement, Spectra grants to Customer a non-exclusive, non-sublicensable and non-transferable license to use the Software and Documentation solely for the Permitted Use during the License Term.

6.6 **SCOPE OF LICENSED ACCESS AND USAGE LIMITS.** The scope of access and use may vary based on the Software and the licenses purchase by Customer. Use of a Software may be limited by number of users, number of servers, number of instances, storage capacity, concurrent jobs, capability, functionality (modules) and/or other licensing restrictions, as described in the Product Specification for each Software ("Usage Limits"). The Usage Limits that apply to the Software licensed by Customer will be set forth in the Quote. If Customer exceeds the Usage Limits, Customer understands and agrees that overage fees may apply and/or Customer may be required to purchase additional licenses to use the Software; Spectra will invoice Customer for the applicable Purchase Price and Customer agrees to pay the invoice in accordance with Section 10.4. Unless otherwise described in a Product Specification or the Quote, Customer may install, use and run one (1) copy of the Software on one library, gateway or computer at a Designated Site for use by up to that number of Authorized Users set forth in the Quote. Customer may make one (1) copy of the Software solely for testing, disaster recovery, or archival purposes. Any copy of the Software made by Customer: (a) will remain the exclusive property of Spectra; (b) will remain subject to this Agreement; and (c) must include all copyright and other Intellectual Property Rights notices contained in the original.

6.7 **USE RESTRICTIONS.** Except as expressly permitted by this Agreement, Customer will not, and will not permit any other Person to:

- (a) copy the Software, in whole or in part;

- (b) modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of any Software;
- (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Software to any third party;
- (d) reverse engineer, disassemble, decompile, decode, or adapt the Software, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part;
- (e) bypass or breach any security device or protection used for or contained in the Software;
- (f) remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights or other symbols, notices, marks, or serial numbers on or relating to any copy of the Software or Documentation;
- (g) use the Software in any way that infringes, misappropriates or otherwise violates any Intellectual Property Right or other right of any Person, or that violates any applicable law;
- (h) use the Software for purposes of: (i) benchmarking or competitive analysis of the Software; (ii) developing, using, or providing a competing software product or service; or (iii) for any purpose that competes with or harms Spectra's business interests;
- (i) use the Software in or in connection with the design, construction, maintenance, operation, or use of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Software could lead to personal injury or severe physical or property damage; or
- (j) use the Software or Documentation other than for the Permitted Use or in any way not expressly permitted by this Agreement.

6.8 **MAINTENANCE RELEASES.** If Customer has purchased Subscription Software or Support Services for Software licensed on a perpetual basis, during the License Term, Spectra will provide Customer with all Maintenance Releases (including updated Documentation) that Spectra may, in its sole discretion, make generally available to its licensees at no additional charge. All Maintenance Releases provided by Spectra to Customer are deemed Software. Customer will install all Maintenance Releases as soon as practicable after receipt but in any event not later than six (6) months after receipt. Customer does not have any right to receive any New Versions of the Software that Spectra may, in its sole discretion, release from time to time; New Versions of the Software are subject to a separate Order.

6.9 **THIRD-PARTY COMPONENTS AND OPEN-SOURCE SOFTWARE.** This Section does not apply to Third-Party Products. Software licensed under this Agreement may incorporate or be distributed with certain third-party software (including open-source software), components, or libraries ("Third-Party Components"). Unless otherwise expressly required by the applicable third-party license, all Third-Party Components are licensed to Customer under the terms of this Agreement. However, where any Third-Party Component is licensed under an open-source license that requires Spectra to provide Customer with the terms of that license or to make source code available, Spectra will comply with those obligations. A list of applicable third-party notices, license terms and source code availability (if required) is available upon request.

6.10 **AUDITS.** Spectra or its nominee (including its accountants and auditors) may, on at least thirty (30) days' notice, inspect and audit Customer's use of the Software under this Agreement at any time during the License Term. All audits will be conducted during regular business hours no more frequently than once in any twelve (12) month period. Customer will make available all records, equipment, information, and personnel, and provide all cooperation and assistance, as may reasonably be requested by or on behalf of Spectra with respect to the audit. If the audit determines that Customer's use of the Software exceeded the usage permitted by this Agreement, Customer will pay to Spectra all amounts due for this excess use of the Software. If the audit determines that the excess use equals or exceeds ten percent (10%) of Customer's permitted level of use, Customer will also pay to Spectra all costs incurred by Spectra in conducting the audit. Customer will make all payments required under this Section within thirty (30) days of the date of written notification of the audit results.

6.11 **SUSPENSION AND TERMINATION.** Spectra, at its option, may suspend or terminate Customer's license to use the Software immediately upon written notice to Customer if:

- (a) Customer fails to pay any undisputed amount due under this Agreement within fifteen (15) days after receiving written notice of non-payment, including payment for any Renewals in accordance with Section 6.3;
- (b) Customer is in material breach of any of its obligations under this Agreement and fails to cure the breach within ten (10) days after written notice;
- (c) Customer's usage exceeds the Usage Limits purchased by Customer for the Software; or
- (d) suspension is necessary to comply with applicable law or to protect the integrity or security of Spectra's personnel, systems, or confidential information.

Suspension or termination will not relieve Customer of its payment obligations during the suspension period or following termination. Fees continue to accrue during any suspension.

6.12 **EFFECT OF TERMINATION AND EXPORT OF DATA.** Upon the expiration or termination of the License Term, Customer's Software licenses will terminate. However, with respect to any Software that retains data in the Software, subject to the terms of this Agreement, Spectra grants to Customer a limited license for at least thirty (30) days to access, read and export data previously stored in the Software using the export features described in the Documentation. After this 30-day period, Customer may not be able to export data from the Software.

6.13 **LAPSES IN SUBSCRIPTION SOFTWARE.** If Customer allows the License Term for Subscription Software to lapse, whether by cancellation, non-renewal or failure to pay renewal fees in a timely manner and Customer later elects to restart the Subscription Software, Customer must purchase a new License Term at Spectra's then-current retain Purchase Price. Customer may be required to also pay a reinstatement fee, recertification fee and the Purchase Price for the period of the lapsed license. Spectra has no obligation to restore any data, systems configurations or access to previous Software releases that were lost or degraded during the lapse.

7. **SERVICES.** The terms in this Section 7 apply to Professional Services and Support Services.

7.1 **OBLIGATIONS OF CUSTOMER.** Customer will:

- (a) cooperate with Spectra in all matters relating to the Services, as reasonably requested by Spectra;

- (b) provide Spectra Personnel with timely access to Customer's premises and other facilities and allow Spectra remote and onsite access to the Spectra Products and Customer's infrastructure environment, as required, for the purposes of performing the Services;
- (c) provide the materials and/or information as Spectra may reasonably request to carry out the Services in a timely manner and ensure that the materials or information are complete and accurate in all material respects; and
- (d) respond promptly to any Spectra request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Spectra to perform Services;
- (e) complete appropriate and agreed upon site readiness activities prior to the performance of Services; and
- (f) promptly notify Spectra when Spectra Products fail and provide Spectra with sufficient details for Spectra to reproduce the failure.

If Spectra's performance of the Services is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants, or employees, Spectra will not be in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer. In such case, Customer may be required to pay additional fees if Spectra is required to extend the scheduled visit or return later; Spectra will invoice Customer for the applicable Purchase Price, and Customer agrees to pay the invoice in accordance with Section 10.4.

7.2 **RIGHT TO SUBCONTRACT.** Spectra may, at its sole discretion, subcontract any portion of the Services to an Affiliate or Authorized Service Provider. However, Spectra will remain fully responsible for the performance of this Agreement.

7.3 **PROFESSIONAL SERVICES**

- (a) Statements of Work and Scope of Services. Subject to these Product Terms, Spectra will provide the Professional Services as described in the Statement of Work (also referred to as an "SOW") that is referenced or included in the Quote. Professional Services may be provided on a fixed fee or time and materials basis. Unless set forth in the SOW, the date and time for the Professional Services will be agreed by Spectra and Customer, and the Professional Services will be provided during local business hours. If any terms and conditions in a SOW are inconsistent with these Product Terms, the terms and conditions in the SOW will govern.
- (b) Expiration of Professional Services. Customer must schedule the start of the Professional Services within six (6) months following the Effective Date of this Agreement unless otherwise agreed in writing by Spectra; Professional Services expire after this 6-month period, and Customer will not receive a credit or refund. However, Preventative Maintenance Services are tied to a Support Services contract and must be used before that Support Services contract expires; unused Preventative Maintenance Services do not carry over to any Renewals of Support Services. Additional restrictions may be included in the SOW.
- (c) Deliverables. Each SOW describes any Deliverables that Spectra will provide to Customer while fulfilling its obligations under the Professional Services.
- (d) Active Support Services Contract Required. To purchase Professional Services, Customer must have a Support Services contract in effect or be in the Renewal process for a Support Services contact.

- (e) Obligations of Spectra. Spectra will:
- (i) appoint a Spectra employee to serve as a primary contact with respect to the Professional Services; and
 - (ii) comply with, and ensure that all Spectra Personnel comply with, all rules, regulations, and policies of Customer that have been communicated to Spectra in writing prior a reasonable time prior to the start of the Professional Services, including security procedures concerning systems and data and remote access thereto, building security procedures and general health and safety practices and procedures.
- (f) Scheduling and Rescheduling. If Customer cancels within thirty (30) days of the scheduled date for the Professional Services, a cancellation fee of US\$1500.00 will apply for services to be performed within the United States and US\$2500.00 for services to be performed outside of the United States. While Spectra will try to accommodate rescheduling, any rescheduled Professional Services are subject to resource availability and may be delayed.
- (g) Changes in Scope. Any changes to the scope of an SOW may be subject to additional fees and must be agreed by Spectra and Customer in writing.

7.4 **SUPPORT SERVICES**

- (a) Descriptions of Services and SLAs. Spectra provides Support Services for Hardware and Software on a subscription (term) basis. The descriptions of the Support Services, including the Service Level Agreements (SLAs), offered by Spectra are available at <https://spectralogic.com/support/>. Spectra reserves the right to revise its Support Services offerings from time to time.
- (b) Level of Support Services. Subject to these Product Terms, Spectra will provide the type and level of Support Services set forth on the Quote. If Software is being used on Hardware, the level of Support Services purchased for the Software and Hardware must be the same. If Customer has more than one unit of Hardware under support, the level of Support Services (including any add-on Support Services such as ASM Subscription Service and TAM Subscription Service) purchased for all Hardware must be the same, unless otherwise agreed by Spectra in writing.
- (c) Support Term. The Support Term is set forth in the Quote. The Initial Support Term will begin as follows:

- If Spectra is installing the related Hardware: Upon completion of the Hardware installation
- If Spectra is not installing the related Hardware: Upon shipment of the Hardware

Notwithstanding anything to the contrary in this Agreement, the Support Term for Subscription Software is the same as the License Term.

- (d) Renewals. Upon expiration of the current Support Term, the Support Services will automatically renew for successive twelve (12) month periods unless either Spectra or Customer gives the other party written notice of non-renewal at least thirty (30) days prior to the expiration of the then current Support Term. Spectra will invoice Customer for the Purchase Price for the Renewal prior to the expiration of the current term, and Customer will

pay the invoice in accordance with Section 10.4. **FOR CUSTOMERS PURCHASING THROUGH AN AUTHORIZED RESELLER:** Spectra may invoice the Authorized Reseller for the Purchase Price of the Renewal instead of invoicing the Customer directly. Customer is obligated to pay the amounts to the Authorized Reseller or Spectra.

- (e) **Exclusions.** The Support Services do not include preventive maintenance, support for Third-Party Products, damages caused by misuse, accessories, supply items, peripherals, repairs necessitated by problems with third-party components or repairs required because of alteration, adjustment, or repair by anyone other than Spectra or its Authorized Service Providers. Without limiting the generality of the foregoing, Customer is responsible for all costs (including diagnosis, shipping, parts and labor) incurred because of the following:
- (i) accident, misuse, abuse or neglect of the system or equipment (such as, but not limited to, use of incorrect line voltages, use of incorrect fuses, use of incompatible devices or accessories, improper or insufficient ventilation, failure to follow operating instructions, or improper racking/setup);
 - (ii) failure to operate the Hardware in accordance with the applicable operating environment and specifications (including, without limitation, fire in the data center, sprinkler system damage, unreasonable temperature variations, exceeding temperature and/or humidity specifications or unregulated power);
 - (iii) failure to follow routine maintenance recommendations (including, without limitation, filter replacement, periodic cleaning of drives in accordance with manufacturing recommendations, or removal of faulty or worn media);
 - (iv) failure to apply a Hardware or Firmware update or Maintenance Release or any workaround supplied by Spectra to Customer that would have corrected or prevented the malfunction;
 - (v) damage, premature failure or reliability issues that Spectra determines to be the result of the use of incompatible, remanufactured, faulty or refurbished media unless Spectra Certified Media is utilized;
 - (vi) damage, premature failure or reliability issues that can be attributed to the addition of incompatible, remanufactured, faulty or refurbished equipment within the host environment, which was not part of the original unit configuration unless previously certified by Spectra;
 - (vii) improper installation or repairs made by any third party not authorized by Spectra; and
 - (viii) failure to abide by Spectra's Product Relocation Procedures, which are available at <https://support.spectralogic.com/services-and-contracts/product-relocation>. Support availability in a new location must also be verified as part of the mandatory relocation procedures.

If Customer requests excluded services, Spectra will invoice Customer for the services performed and/or Parts provided based on Spectra's then current retail Purchase Prices, and Customer agrees to pay the invoice in accordance with Section 10.4.

- (f) **Unsupported Hardware and Software.** Customers without a valid Support Services contract are not entitled to receive Maintenance Releases, Firmware updates, maintenance requests, or technical support. Software, including Firmware, downloaded for Hardware under a

Support Services contract cannot be utilized in any unsupported Hardware. Parts may not be moved from Hardware under a Support Services contract to Hardware that is not under a Support Services contract and vice versa without prior written approval from Spectra.

- (g) Ownership of Materials. All Maintenance Materials are the property of Spectra. If Spectra stores any Maintenance Materials at Customer's location, Customer agrees to take all reasonable and necessary precautions to safeguard all Maintenance Materials. Customer is responsible for any loss or damage to Maintenance Materials stored at Customer's location; Spectra will invoice Customer for the cost of replacement for any lost or damaged Maintenance Materials, and Customer will pay the invoice in accordance with Section 10.4.
- (h) Ownership of Parts.
 - (i) Generally. All Parts removed from supported Hardware become the property of Spectra upon replacement. Unless agreed by Spectra in writing, all removed Parts must be returned to Spectra within five (5) business days following receipt of the replacement Part, in accordance with the RMA Process. If, following replacement of a Part, Customer does not return the removed Part in accordance with the RMA Process, Spectra will invoice Customer for the current retail Purchase Price of the Part and Customer will pay the invoice in accordance with Section 10.4.
 - (ii) Assisted Self Maintenance (ASM) Subscription Service. Under the ASM Subscription Service, Spectra will maintain an inventory of ASM Parts, as determined by Spectra, at Customer's location. ASM Parts are provided to Customer on a bailment basis and remain the property of Spectra until the ASM Part is installed as a replacement Part in Hardware and Customer returns the removed Part to Spectra. Customer understands and agrees that Customer: (1) must segregate ASM Parts from its own inventory; (2) is responsible for the return of the removed Part after performing a part replacement; and (3) is liable for any loss or damage to ASM Parts and removed Parts. Following expiration or termination the ASM Subscription Service, Customer will return all ASM Parts to Spectra within fourteen (14) calendar days in accordance with the RMA Process. If Customer does not return any ASM Part, Spectra will invoice Customer for the current retail Purchase Price of the ASM Part and Customer agrees to pay the invoice in accordance with Section 10.4.
- (i) Hardware End of Life
 - (i) Generally. Spectra will notify Customer if, in the opinion of Spectra, maintaining the Hardware in good working condition is no longer possible. Spectra may remove the hardware from the Support Services, with a pro rata refund to Customer of prepaid fees.
 - (ii) Disk Systems Supportable Lifespan Policy. All Hardware that is a disk system has a limited supportable lifespan and is subject to the terms and conditions set forth in Spectra's Disk Systems Supportable Lifespan Policy.
- (j) Lapses in Support Services. If Customer allows the Support Term for Support Services to lapse, whether by cancellation, non-renewal or failure to pay renewal fees in a timely manner, all right to Support Services will terminate as of the end of the applicable Support Term. If Customer later elects to restart the Support Services, Customer must purchase a new Support Term at Spectra's then-current retail Purchase Price, and Customer may be required to also pay a reinstatement fee, recertification fee and the Purchase Price for the period of lapsed service.

7.5 **SUSPENSION AND TERMINATION.** Spectra, at its option, may suspend or terminate the Services immediately upon written notice to Customer if:

- (a) Customer fails to pay any undisputed amount due under this Agreement within ten (10) days after receiving written notice of non-payment;
- (b) Customer is in material breach of any of its obligations under this Agreement and fails to cure the breach within ten (10) days after written notice; or
- (c) suspension is necessary to comply with applicable law or to protect the integrity or security of Spectra's personnel, systems or confidential information.

Suspension or termination will not relieve Customer of its payment obligations during the suspension period or following termination. Fees continue to accrue during any suspension.

8. **HYBRID SOLUTIONS.** The terms of this Section 8 apply to Hybrid Solutions.

8.1 **HARDWARE, PARTS, ACCESSORIES AND SPECTRA CERTIFIED MEDIA.** The Hardware component of a Hybrid Solution is subject to all terms and conditions related to Hardware, Parts, Accessories and Spectra Certified Media.

8.2 **SUBSCRIPTION SERVICES.**

- (a) Applicable Terms. Except for those terms specifically modified in this Section 8.2, the terms and conditions related to Software and Support Services apply to the Subscription Services. Accordingly, during the Subscription Term, Spectra: (i) grants Customer the right to use the Software in accordance with Section 6; (ii) will make available to Customer the functionality and capacity in the Hardware that Customer has purchased; and (iii) will provide Support Services in accordance with Section 7.4; however, any reference to a License Term or Support Term will mean the Subscription Term.
- (b) Subscription Term. The Initial Subscription Term is set forth in the Quote. The Initial Subscription Term will begin as follows:
 - If Spectra is installing the related Hardware: Upon completion of the Hardware installation
 - If Spectra is not installing the related Hardware: Upon shipment of the Hardware
- (c) Renewals of Subscription Services. Upon expiration of the Initial Subscription Term or any Renewal Subscription Term, the Subscription Term will automatically renew for successive twelve (12) month periods unless either Spectra or Customer gives the other party written notice of non-renewal at least thirty (30) days prior to the expiration of the then current Subscription Term. Spectra will invoice Customer for the Purchase Price for any Renewal Subscription Term prior to the expiration of the current Subscription Term, and Customer will pay the invoice in accordance with Section 10.4. The Purchase Price for each Renewal Subscription Term will be Spectra's then-current retail Purchase Price for the Subscription Services. **FOR CUSTOMERS PURCHASING THROUGH AN AUTHORIZED RESELLER:** Spectra may invoice the Authorized Reseller for the Purchase Price for the Renewal instead of invoicing Customer directly. Customer is obligated to pay the applicable amounts to the Authorized Reseller or Spectra.
- (d) Scope of Subscription Services and Usage Limits. The Purchase Price for the Subscription Services is determined by usage rights; the scope of access and use of functionality and/or

storage in the Software and Hardware that is part of the Hybrid Solution may vary based on the Subscription Services purchased by Customer. Use of the Subscription Services may be limited by number of users, number of servers, number of instances, storage capacity, concurrent jobs, capability, functionality (modules) and/or other licensing restrictions, as described in the Product Specification for the Hybrid Solution (“Usage Limits”). The Usage Limits that apply to the Subscription Services will be set forth in the Quote or Product Specifications. If Customer exceeds the Usage Limits, Customer understands and agrees that overage fees may apply and/or Customer may be required to purchase additional licenses or rights to use the Subscription Services; Spectra will invoice Customer for the applicable Purchase Price and Customer agrees to pay the invoice in accordance with Section 10.4.

- (e) Suspension and Termination. Spectra may suspend or terminate the Subscription Services in accordance with Section 6.11 or Section 7.5. Suspension or termination will not relieve Customer of its payment obligations during the suspension period or following termination. Fees continue to accrue during any suspension.
- (f) Effects of Termination. Upon termination of the Subscription Term, all of Customer’s rights to use the Subscription Services will end. However, subject to the terms of this Agreement, Spectra grants to Customer a limited, perpetual license to use the Software solely for the following purposes: (i) to access, read, and export data previously stored in the Hardware and Software; and (ii) to operate the Hardware in a read-only mode. Customer may not upload, modify, or input new data into the Hardware or Software, or use the Software, including any Firmware, for any other purpose.
- (g) Lapses in Subscription Services. If Customer allows the Subscription Term for Subscription Services to lapse, whether by cancellation, non-renewal or failure to pay renewal fees in a timely manner and Customer later elects to restart the Subscription Services, Customer must purchase a new Subscription Term at Spectra’s then-current retail Purchase Price. Customer may be required to also pay a reinstatement fee, recertification fee and the Purchase Price for the period of lapsed service. Spectra has no obligation to restore any data, systems configurations or access to previous Software releases that were lost or degraded during the lapse.

9. USE OF SPECTRA PRODUCTS

- 9.1 **DOCUMENTATION**. Customer may access the Documentation as set forth in Section 4.4(c) and use the Documentation as set forth in Sections 6.5 and 6.7.
- 9.2 **INSTALLATION, OPERATION AND PERFORMANCE**. Customer agrees to install and use the Spectra Products in accordance with the applicable Documentation and this Agreement. This includes, without limitation, all instructions, specifications, and requirements related to environmental conditions, electrical or mechanical load capacities, installation procedures, required hardware specifications, maintenance schedules, performance limitations and other operational parameters set forth in the Documentation. Any use of the Spectra Products outside of these parameters, or inconsistent with the Documentation or this Agreement, may void any applicable warranties or support obligations of Spectra.
- 9.3 **ASSOCIATED COSTS**. Customer is responsible for all Internet, communication, hardware, security and other costs associated with the use of the Spectra Products.
- 9.4 **SECURITY**. Customer is responsible for implementing and maintaining appropriate physical, technical, and administrative safeguards to ensure the security and protection of the Hardware and Software, including, without limitation, data stored on or processed through these systems.

- 9.5 **INTERNET CONNECTION.** Some Spectra Products may require Customer to provide a reliable internet connection during their use. This connectivity may be needed for installation, proper operation, functionality, updates, security patches, monitoring and/or remote support. Failure to maintain this connectivity may impair the performance of the Spectra Products.
- 9.6 **PRODUCT CHANGES.** Spectra reserves the right to discontinue developing, producing, licensing or distributing any Spectra Product and to modify, replace or add to the Spectra Products at its discretion at any time. Customer agrees that the purchase of any Spectra Product is not contingent on the delivery of any future Spectra Product, functionality or features or any statements by Spectra regarding any future Spectra Products, functionality or features.

10. **PRICES AND PAYMENT.**

10.1 **PURCHASE PRICE.** Customer will pay Spectra the Purchase Price for those Spectra Products purchased or licensed by Customer as set forth in the Quote plus any Freight Fees and Taxes. The Purchase Price is non-refundable. Unless otherwise set forth in the Quote: (a) any promotional fee or discount offered by Spectra applies to the first 12-month period of the Support Term, License Term or Subscription Term and not to any subsequent 12-month period in a multi-year term or any renewals; and (b) the Purchase Price applicable to any Renewal of Support Services, Subscription Software or Subscription Services will be equal to Spectra's then-current retail Purchase Price on the date of renewal, unless otherwise agreed by Spectra in writing. If Spectra approves payment of the Purchase Price, Freight Fees and Taxes in a currency other than US Dollars, Spectra will invoice Customer for the applicable amount using an exchange rate, as reported by Oanda.com, on the last business day of the month preceding the date of invoice.

10.2 **INVOICES.** Spectra will invoice Customer for Spectra Products as follows:

- Hardware, Parts, Accessories and Spectra Certified Media: Upon shipment regardless of when Delivery occurs
- Software: Upon shipment of the Hardware on which it is preinstalled or upon Delivery if the Software is made available for electronic download or via license keys
- Professional Services and Support Services: If purchased at the same time as other Spectra Products, upon shipment of the Hardware, Parts, Accessories or Spectra Certified Media; in all other cases, following the Effective Date of this Agreement.
- Multi-year Contracts: With respect to Support Services, Subscription Software and Subscription Services purchased or licensed for multi-year terms, unless otherwise set forth in the Quote, the Purchase Price will be invoiced if full as noted above.
- Renewals: With respect to Support Services, Subscription Software and Subscription Services, the Purchase Price for any Renewal will be invoiced prior to the start of the Renewal Term.

10.3 **INVOICE DISPUTES.** If Customer disputes an invoice, it must notify Spectra on or before the applicable payment due date, providing a detailed description of the dispute. Customer may only withhold payment on that portion of an invoice that is in dispute and must pay the undisputed portion in accordance with Section 10.4. Spectra and Customer will seek to resolve all invoice disputes expeditiously and in good faith.

10.4 **PAYMENT TERMS.**

- (a) Due Date. Customer will pay all invoiced amounts due to Spectra immediately upon receipt of invoice, but in any event prior to delivery of the Spectra Products unless: (i) otherwise agreed on the Quote; or (ii) Spectra has approved Customer for extended payment terms in accordance with Section 10.5. Subject to Section 10.5, Customers with a continuing credit approval will pay all invoiced amounts within thirty (30) days from the date of invoice.
- (b) Payment Methods. Customer will make all payments in US dollars by ACH, wire transfer or credit card in accordance with the payment instructions set forth on the invoice. Credit card payments are processed by a third-party payment service provider; Customer's use of this service is subject to the terms and conditions of that service provider. Spectra does not collect or store Customer's credit card information and is not responsible for any errors, acts or omissions of the service provider.
- (c) Late Payments. Customer will pay interest on all late payments at the lower rate of: (i) 1.5% per month; and (ii) the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer will reimburse Spectra for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which Spectra does not waive by the exercise of any rights hereunder), Spectra may suspend the delivery of any Spectra Products or performance of any Services if Customer fails to pay any amounts when due until all past due amounts have been paid. Customer will not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Spectra or its Affiliates.

10.5 **CREDIT APPROVAL.** Spectra, in its sole discretion, may approve Customer for extended payment terms based on the financial information and/or payment history of Customer. From time to time, Spectra may request an update of financial information from Customer, and Customer will promptly comply with this request. If, at any time, Spectra determines, in its sole discretion, that Customer's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to Spectra's other rights under this Agreement or applicable law, Spectra may without liability or penalty, take any of the following actions:

- (a) require Customer to pay cash in advance or cash on delivery;
- (b) cancel any previously accepted Orders or cancel or delay any further shipment of Spectra Products to Customer; and/or
- (c) accelerate the due date of all amounts owing by Customer to Spectra.

10.6 **TAXES AND OTHER COSTS.** All prices are exclusive of all national, federal, state and local sales and use taxes (including VAT and GST); excise taxes; tariffs, customs, duties and other governmental charges; and any other similar taxes, duties and charges of any kind on any amounts payable by Customer (collectively, "Taxes") and Freight Fees. Customer is responsible for all Taxes and Freight Fees. However, Customer is not responsible for any taxes imposed on, or with respect to, Spectra's income, revenues, gross receipts, personal or real property or other assets. If Customer is required to withhold Taxes from payments, the amount due and payable to Spectra must still equal the Purchase Price and other fees that would otherwise be payable had the Taxes not been withheld, and Customer must provide Spectra with a receipt or other acceptable documentation from the applicable taxing authority evidencing the payment of the Taxes.

11. **LIMITED WARRANTY AND DISCLAIMER.**

11.1 **LIMITED WARRANTY.** With respect to each Spectra Product, Spectra makes that limited warranty set forth in the Limited Warranty available at <https://spectralogic.com/limitedwarranty/>. In addition,

Spectra Certified Media is subject to the Spectra Certified Media Guarantee available at <https://spectralogic.com/mediaguarantee/>.

11.2 **WARRANTY LIMITATIONS.** Spectra will have no obligation under any Limited Warranty if:

- (a) Spectra is not notified in writing of a warranty claim within the period set out in the Limited Warranty;
- (b) the Spectra Product has been subject to misuse, abuse, neglect, negligence, accident, improper testing or installation, improper maintenance or repair, improper storage or handling, abnormal physical stress or environmental conditions, or any use in a manner inconsistent with the Spectra Product's specifications or use or maintenance directions, as further described in the Limited Warranty; or
- (c) any of the other exclusions set forth in the Limited Warranty apply.

11.3 **WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY WARRANTED IN THE LIMITED WARRANTY AND SPECTRA CERTIFIED MEDIA GUARANTEE, THE SPECTRA PRODUCTS ARE PROVIDED "AS IS," WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR NON-MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, CUSTOM, TRADE, QUIET ENJOYMENT, ACCURACY OF INFORMATION, CONTENT OR RESULTS, OR CONDITIONS ARISING UNDER ANY OTHER LEGAL REQUIREMENT. SPECTRA DOES NOT WARRANT THAT (A) THE SPECTRA PRODUCTS WILL BE ACCURATE, CURRENT OR COMPLETE; (B) THE SPECTRA PRODUCTS WILL MEET THE NEEDS OR EXPECTATIONS OF CUSTOMER; (C) THE OPERATION OF THE SPECTRA PRODUCTS WILL BE ERROR FREE OR UNINTERRUPTED; OR (D) EXCEPT IN THE UNITED STATES, THE SPECTRA PRODUCTS ARE CERTIFIED BY ANY GOVERNMENT OR INDUSTRY AGENCY RESPONSIBLE FOR CERTIFYING THE SAFETY OR OTHER STANDARDS OF PRODUCTS SOLD IN ANY COUNTRY OR THAT THE SPECTRA PRODUCTS ARE COVERED BY AN EXCEPTION TO ANY SUCH CERTIFICATION. THE LIMITED WARRANTY IS PROVIDED ON THE BASIS THAT CUSTOMER IS PURCHASING SPECTRA PRODUCTS FOR BUSINESS PURPOSES AND NOT FOR HOUSEHOLD OR CONSUMER USE. AUTHORIZED RESELLERS HAVE NO AUTHORITY TO MAKE ANY REPRESENTATIONS OR COMMITMENTS ON BEHALF OF SPECTRA OR TO MODIFY, IN ANY RESPECT, THE LIMITED WARRANTY.

11.4 **APPLICABLE LAW EXCEPTION.** Nothing in the Limited Warranty or disclaimer set forth in Section 11.3 excludes, restricts, or modifies any right or remedy, or any guarantee, warranty or other term or condition, implied or imposed by any applicable law that cannot lawfully be excluded or limited, including, without limitation, the Australian Consumer Law (ACL) ("Non-Excludable Rights"). However, to the extent permitted by applicable law, Spectra's liability for any breach of a Non-Excludable Right is limited, at Spectra's option, to the sole and exclusive remedies stated in the Limited Warranty.

12. **INTELLECTUAL PROPERTY**

12.1 **OWNERSHIP OF SPECTRA PRODUCTS.** Subject to Section 4.4(a), all right, title and interest in and to the Spectra Products, including all corrections, enhancements or other modifications made by Spectra or any Authorized Service Provider at Spectra's direction, and all Intellectual Property Rights in the Spectra Products are the sole and exclusive property of Spectra or its suppliers, as applicable. All rights not expressly granted to Customer in this Agreement are reserved by Spectra.

12.2 **OWNERSHIP OF DELIVERABLES.** Subject to Customer's compliance with this Agreement and payment of the applicable Purchase Price, Spectra will own all right, title and interest in and to the Deliverables excluding any Confidential Information of Customer. Spectra grants to Customer a non-

exclusive, worldwide, royalty-free, non-transferable (except in connection with a permitted assignment of this Agreement) license to use the Deliverables for the Permitted Use.

- 12.3 **OWNERSHIP OF CUSTOMER DATA.** As between Customer and Spectra, all right, title and interest in and to any Customer data and other materials (including without limitation, the Customer Artwork) it furnishes to Spectra are the sole and exclusive property of Customer. Customer grants Spectra a non-exclusive license to use Customer data and materials solely for the benefit of Customer in fulfilling Spectra's obligations under this Agreement.
- 12.4 **PROPRIETARY RIGHTS NOTICES.** Customer will not delete, alter, cover or distort any copyright, trademark or other proprietary rights notice placed by Spectra on or in the Spectra Products and will ensure that all notices are reproduced on all copies of Software and Documentation.
- 12.5 **NO TRADEMARK LICENSE.** Customer may not use the trademarks, service marks, trade name, domain name or other source identifiers of Spectra, or its Affiliates or suppliers, without the express written consent of Spectra.

13. CONFIDENTIALITY

- 13.1 **OBLIGATIONS.** Each party ("Recipient") acknowledges that, during the performance of this Agreement, it may obtain the Confidential Information of the other party ("Discloser"). Confidential Information disclosed pursuant to this Agreement will be subject to the terms of this Agreement during the Term of this Agreement and for two (2) years following termination or expiration of this Agreement. Recipient will take all reasonable steps to prevent the unauthorized disclosure of and maintain the confidentiality of the Confidential Information of Discloser. Recipient will not disclose the Confidential Information of Discloser to any employees or third parties except to employees (including independent contractors), subsidiaries and consultants of Recipient who have at least an equivalent confidentiality obligation to Recipient and who have a need to know the Confidential Information on condition that Recipient will be liable for any breach by the individual or entity. The Confidential Information disclosed by Discloser may only be used by Recipient as necessary to perform its obligations or exercise its rights under this Agreement.
- 13.2 **EXCEPTIONS.** The obligations set forth in this Section 13 will not apply to any information that: (a) is or becomes generally available to the public or within the industry to which the information relates other than as a result of a breach of this Agreement; (b) was known to Recipient prior to receipt from Discloser, provided prior knowledge can be substantiated by documentary evidence antedating the disclosure by Discloser; (c) is disclosed to Recipient by a third-party (other than employees or agents of either party) which in making the information available to Recipient, is not in violation of any obligation of confidentiality to Discloser; or (d) is independently developed by Recipient, provided the independent development can be substantiated by documentary evidence. A disclosure of Confidential Information: (i) in response to a valid order by a court or other governmental body; or (ii) otherwise required by law, will not be considered to be a breach of this Agreement or a waiver of confidentiality for other purposes; provided, however, that Recipient will provide prompt written notice thereof to Discloser to enable Discloser to seek a protective order or otherwise prevent the disclosure.
- 13.3 **DATA PRIVACY.** Spectra does not process personal data on behalf of Customer in connection with the sale or license of Spectra Products under this Agreement. Spectra may collect and use limited business contact information of Customer's personnel (such as names, email addresses, and phone numbers) for purposes of order processing, account management, and customer support, in accordance with applicable data protection laws and Spectra's Privacy Notice available at <https://spectralogic.com/privacynotice/>. Spectra will not sell or share this personal data with third parties except as necessary to provide the Spectra Products or as required by law. Each party will comply with its respective obligations under applicable data protection laws, including the General

Data Protection Regulation (EU) 2016/679 (GDPR). Customer is responsible for: (a) maintaining reasonable measures to avoid Spectra's access to personal data not required by Spectra; and (b) obtaining all necessary rights, permissions and consents associated with disclosure of any required personal data to Spectra, prior to the disclosure.

14. **PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT INDEMNIFICATION.** This Section 14 states Spectra's entire liability and Customer's exclusive remedy for any claims of infringement.
- 14.1 **SCOPE OF INDEMNIFICATION.** Subject to the terms of this Agreement, Spectra will defend at its own expense any lawsuit, arbitration or other claim against Customer brought by a third party that a Spectra Product, as delivered, infringes a third-party United States patent, copyright or registered trademark ("Claim"). Spectra will indemnify Customer against the final judgment entered by a court of competent jurisdiction or any settlement arising out of the Claim. Notwithstanding the foregoing, Spectra will have no obligation under this Section or otherwise with respect to any infringement claim based upon: (a) any use or distribution of the Spectra Products not in accordance with this Agreement; (b) any use or distribution of the Spectra Products in combination with products, equipment, software or data not supplied or approved in writing by Spectra if the infringement would have been avoided but for the combination with other products, equipment, software or data; (c) any use of a prior release of the Software after a more current release has been made available to Customer; or (d) any modification of the Spectra Products by any person other than Spectra or an Authorized Service Provider.
- 14.2 **INDEMNIFICATION PROCEDURES.** Customer must promptly notify Spectra in writing of the Claim. Customer must give Spectra exclusive control over the defense and settlement and any subsequent appeal and reasonably cooperate in the investigation, settlement, and defense of the Claim; provided that Customer may, at its own expense, participate in the defense. If Customer fails to notify Spectra promptly of the Claim, and that failure prejudices Spectra's ability to defend, settle or respond to the Claim, Spectra's obligation to defend or indemnify Customer with respect to that Claim will be reduced to the extent Spectra has been prejudiced. In addition, the failure to provide prompt notification will relieve Spectra of any obligation to reimburse Customer for attorneys' fees incurred prior to notification. Spectra will not agree to a settlement of the Claim that imposes an obligation on Customer not contemplated by this Agreement without Customer's consent.
- 14.3 **RIGHT TO MITIGATE.** If a Spectra Product becomes, or in Spectra's sole opinion is likely to become, the subject of an infringement claim, Spectra may, at its option and expense, either: (a) procure for Customer the right to continue to use the Spectra Products; or (b) replace or modify the Spectra Products so that they become non-infringing.
15. **LIMITATION OF LIABILITY.** IN NO EVENT WILL SPECTRA BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT; LOSS OR CORRUPTION OF DATA; LOSS OF OR INTERRUPTION TO BUSINESS; COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES; OR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER THE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SPECTRA HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT WILL THE TOTAL LIABILITY OF SPECTRA, ITS AFFILIATES AND ITS SUPPLIERS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SPECTRA PRODUCTS EXCEED THE PURCHASE PRICE PAID BY CUSTOMER FOR THE SPECTRA PRODUCT(S) GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND OTHER TORTS AND STATUTORY CLAIMS. HOWEVER, NOTHING IN THIS AGREEMENT LIMITS OR EXCLUDES EITHER PARTY'S LIABILITY TO THE EXTENT SUCH LIMITATION OR EXCLUSION IS PROHIBITED BY APPLICABLE LAW.

16. **TERMINATION.**

16.1 **TERM.** The term of this Agreement commences on the Effective Date and continues until the last to occur of: (a) completion of the Professional Services, if applicable; and (b) the expiration or termination of all Support Terms, License Terms and/or Subscription Terms, unless earlier terminated in accordance with this Agreement. The purchase of Hardware, Parts, Accessories and Spectra Certified Media is non-cancellable and non-refundable, and Customer's rights to these products are perpetual upon Delivery and payment in full.

16.2 **TERMINATION.** This Agreement may be terminated immediacy upon notice by:

- (a) either party if the other party is in material breach of any representation, warranty, or covenant under this Agreement (other than a failure by Customer to pay) and either the breach cannot be cured or, if the breach can be cured, it is not cured within thirty (30) days following that party's receipt of notice of the breach;
- (b) either Party if the other party: (i) becomes insolvent or files, or has filed against it, a petition for voluntary or involuntary bankruptcy or under any other insolvency law; (ii) makes or seeks to make a general assignment for the benefit of its creditors, seeks reorganization, winding-up, liquidation, dissolution, or other similar relief with respect to it or its debts; (iii) applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property; or (iv) is generally unable to pay its debts as they become due;
- (c) Spectra pursuant to Sections 3.4, 6.11 or 7.5; and
- (d) Spectra if Customer fails to pay any amount when due under this Agreement and remains in default for more than ten (10) days following Customer's receipt of notice of nonpayment.

For clarity, with respect to Software licensed on a perpetual basis (whether or not pre-installed on Hardware), this Agreement will remain in effect with respect to the Software until the License Term is terminated by Spectra in accordance with the foregoing or by Customer by permanently deleting Software from all devices and systems and destroying any copies and certifying to Spectra in writing that all copies of Software have been deleted or destroyed; however, Customer is still responsible for paying the applicable Purchase Price in full.

16.3 **SUSPENSION.** In addition to Spectra's right to suspend access to Software and Support Services pursuant to Sections 6.10 and 7.5, respectively, Spectra reserves the right to suspend future deliveries of Spectra Products if Customer fails to pay any portion of the Purchase Price when due. Fees will continue to accrue during any suspension.

16.4 **EFFECTS OF TERMINATION.** Upon the termination or expiration of this Agreement: (a) Customer will, within ten (10) days, pay in full to Spectra any outstanding invoices; (b) all Software and other licenses, Support Services and Subscription Services will immediately terminate; and (c) Customer must permanently delete Software from all devices and systems and destroy any copies. Within ten (10) days following termination or expiration, Customer must certify to Spectra in writing that all copies of Software have been deleted or destroyed. However, Customer will have the right to continue to use Software in accordance with Section 6.12 and 8.2(f). The expiration or termination of this Agreement does not relieve either party of any obligations that have accrued on or before the effective date of the termination or expiration.

16.5 **SURVIVAL.** The following Sections will survive the termination or expiration of this Agreement: 4.4, 6, 9, 10, 11, 12, 13, 14, 15, 16 and 17, and any other provisions of this Agreement that by reasonable interpretation are intended by the parties to survive the termination or expiration of this Agreement.

17. **GENERAL TERMS.**

- 17.1 **ENTIRE AGREEMENT.** This Agreement, including the Quote or SOW subject hereto, these Product Terms and the other documents incorporated by reference, constitutes the entire agreement between the parties with respect to the contemplated transactions and supersedes all previous and contemporaneous agreements, understandings and arrangements with respect to these transactions, whether oral or written. The titles and headings are for reference purposes only and will not limit the construction of this Agreement, which will be considered as a whole. Unless explicitly stated otherwise in writing, any inconsistency in any documents that comprise this Agreement will be resolved by giving precedence in the following order: (a) the Quote; (b) any Statement of Work; (c) these Product Terms; and (d) any other documents incorporated by reference.
- 17.2 **CHANGES TO PRODUCT TERMS.** Spectra may update these Product Terms and any referenced documents at any time in its sole discretion. Changes to referenced documents take effect when posted on www.spectralogic.com. Changes to terms in the body of these Product Terms apply only to Quotes and Renewals that start after the effective date of the updated Product Terms. Once Customer accepts a Quote, the Product Terms for that Order are fixed and may be changed only by a written agreement signed by both parties that references this Agreement. However, Spectra may still change any terms that are expressly stated to be subject to change from time to time, even if those terms appear in the body of the Product Terms.
- 17.3 **WAIVER.** The failure or delay by a party to require performance of any provision of this Agreement does not constitute a waiver. All waivers must be in writing and signed by the party granting the waiver. The waiver by a party of any of its rights or remedies in a particular instance will not be construed as a waiver of the same or a different right or remedy in a subsequent instance.
- 17.4 **SEVERABILITY.** If any provision of this Agreement is invalid, illegal or unenforceable, that provision will be deemed to be restated so that it is enforceable to the maximum extent permissible under law and is consistent with the original intent and economic terms of the invalid provision.
- 17.5 **ASSIGNMENT.** Customer may not transfer or assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part and including any transfers by operation of law, without the prior written consent of Spectra. Any attempted assignment or transfer in violation of this Section will be null and void. This Agreement will be binding on and inure to the benefit of the parties and their respective permitted successors and assigns.
- 17.6 **COMPLIANCE WITH LAWS.** Customer is responsible for its own compliance with laws, regulations and other legal requirements applicable to the conduct of its business and this Agreement, and agrees to comply with all these laws, regulations and other legal requirements including, without limitation, the Foreign Corrupt Practices Act of the United States of America and the Convention on Combating Bribery of Foreign Government Officials.
- 17.7 **INTERNATIONAL TRADE COMPLIANCE.** The Spectra Products are subject to the customs and export control laws and regulations of the United States and any country in which the Spectra Products are manufactured, received or used. Customer will comply with these laws, regulations and rules in the performance of its obligations under this Agreement. Customer represents and warrants that it is not subject to economic sanctions under Applicable Trade Laws and is not located in a country or territory that is subject to such sanctions. Customer certifies that neither the Spectra Products nor any component thereof is being or will be acquired, shipped, transferred, exported or re-exported, directly or indirectly, into any country prohibited by export restrictions and controls. Customer bears all responsibility for export law compliance. Customer will cooperate with Spectra to ensure ongoing compliance with all laws, regulations and other legal requirements applicable to the conduct of its business and this Agreement and will provide Spectra with the assurances and

official documents that Spectra may request periodically to verify Customer’s compliance with this Agreement.

- 17.8 **NO BRIBES OR KICKBACKS.** Spectra agrees not to provide, and Customer agrees that it has not received or been offered, any illegal or improper bribe, kickback, payment, gift or thing of value from any Spectra employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. Each party will use reasonable efforts to promptly notify the other party if it learns of any violation of these restrictions. Customer agrees to comply with all relevant anti-bribery and anti-corruption laws in effect in the UK, US and any other jurisdiction in which it operates.
- 17.9 **EQUAL EMPLOYMENT OPPORTUNITY.** If required by applicable law, the Equal Opportunity Clause required under Executive Order 11246, the affirmative action commitment for disabled veterans of the Vietnam Era set forth in 41 CFR 60-250.4, the affirmative action clause for disabled workers set forth in CFR 60-741.4, and the related regulations of the Secretary of Labor, 41 CFR Chapter 60, are incorporated by reference in this Agreement. Should any provision of this Agreement conflict with any law or regulation, the validity of the remaining provisions will not be affected.
- 17.10 **US GOVERNMENT USERS.** The Spectra Products are “commercial items”, “commercial computer software”, and/or “commercial computer software documentation” as these terms are as defined in FAR 2.101 and DFARS 252.227-7014(a)(1). The Spectra Products may be provided to any government entity only subject to the terms and conditions of this Agreement and any additional terms as are consistent with this Agreement and with: (a) the policies set forth in 48 C.F.R. 12.212 (for civilian agencies); or (b) the policies set forth in 48 C.F.R. 227.7202-1 and 22.7202-3 (for units of the Department of Defense).
- 17.11 **FORCE MAJEURE.** Except for Customer’s obligation to make payment under this Agreement, neither party will be liable for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent the failure or delay is caused by or results from acts or events beyond that party’s reasonable control, including, without limitation: acts of God; fire; water damage; natural disaster (including earthquakes, storms, and floods); power or utility outages; strikes; war, military action, or act of terrorism; medical crisis, pandemic or epidemic; a change in law or regulation (including export control regulations); acts, directives and orders of government and health authorities; or an order or judgment of a court (not arising out of breach by the party of this Agreement). The party suffering a force majeure event will promptly give notice to the other party, stating the period of time the occurrence is expected to continue.
- 17.12 **GOVERNING LAW AND DISPUTE RESOLUTION.** All matters and disputes arising out of or in connection with this Agreement will be governed by and construed under the laws and using the method of dispute resolution indicated below, based upon where Customer is domiciled:

If Customer is domiciled in:	The governing law is:	Any suite, action or proceeding arising out of or relating to this Agreement must be:
United States, Canada or Mexico	New York and controlling United States federal law	Instituted in the United States District Court for the Southern District of New York or the state courts located in New York, New York
Any other country	Laws of England & Wales	Finally settled under the Rules of Arbitration of the International Chamber of Commerce by arbitrator(s) appointed in accordance with those Rules. The

If Customer is domiciled in:	The governing law is:	Any suite, action or proceeding arising out of or relating to this Agreement must be:
		place of arbitration will be New York, New York, and all awards and other decisions will be deemed to have been made there, without prejudice to the right of the arbitral tribunal to hold hearings, meetings, or sessions any place it deems appropriate.

Each party irrevocably submits to the exclusive jurisdiction of the applicable court set forth above. However, each party will have the right at any time to seek a temporary or permanent injunction or other equitable remedy or relief in any court having subject matter jurisdiction anywhere in the world. Each party waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement. With respect to arbitration, there will be one arbitrator, and the language of arbitration will be English. The party or parties prevailing in any legal actions, arbitration or other proceeding relating to this Agreement, whether in arbitration, at trial or upon appeal, will be entitled to recover reasonable attorneys' fees and other costs and expenses incurred, in addition to any other relief to which it may be entitled. Neither party may institute any action in any form arising out of this Agreement more than two (2) years after the cause of action has arisen. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this License Agreement.

- 17.13 **CUMULATIVE REMEDIES.** Except as otherwise specifically stated in these Product Terms, all rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties or otherwise.
- 17.14 **NO THIRD-PARTY BENEFICIARIES.** This Agreement is for the sole benefit of the parties and their respective successors and permitted assigns. Nothing in this Agreement is intended to or will confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.
- 17.15 **NOTICES.** Except for routine operational correspondence, all notices, demands, consents and other communications required or permitted to be given under this Agreement must be in writing and will be considered delivered and effective upon receipt (or when delivery is refused) when: (a) personally delivered; (b) sent by registered or certified mail (postage prepaid, return receipt requested); (c) sent by nationally-recognized private carrier (e.g., Federal Express, DHL, etc.) (with signature required and all fees prepaid); or (d) sent by email with confirmation of transmission. Notices will be sent to Customer at the address set forth in the Quote (or if none is specified, the address to which Spectra sends invoices). Notices to Spectra must be sent to legal@spectralogic.com or 6285 Lookout Road, Boulder, CO, USA Attn. Legal.
- 17.16 **PUBLICITY.** Spectra may identify Customer as a customer in its general customer lists, website and marketing presentations, including use of Customer's name and logo, provided that this use is not presented in a manner that suggests Customer's endorsement. All other uses, including case studies and press releases, require the prior written approval of both parties, which approvals will not be unreasonably withheld.
- 17.17 **CONTROLLING LANGUAGE.** This Agreement is drafted in the English language only. English will be the controlling language in all respects, and all versions of this Agreement in any other language are

for accommodation only and will not be binding on the parties. All communications and notices to be made or given pursuant to this Agreement must be in the English language.

- 17.18 **COUNTERPARTS AND ELECTRONIC SIGNATURES.** The Quote may be executed in counterparts, each of which is deemed an original, but all of which taken together are deemed one and the same agreement. Spectra and Customer agree that the Quote may be executed and delivered by electronic signatures and that the signatures appearing on the Quote are the same as handwritten signatures for the purposes of validity, enforceability and admissibility.

EXHIBIT A DEFINITIONS

Capitalized terms have the meanings in this Exhibit A or in the Section in which they first appear in these Product Terms.

“Accessories” means any ancillary or supplementary items designed for use with Hardware and/or Spectra Certified Media, including, without limitation, power supplies, cables, mounting hardware and connectors.

“Affiliate” of a party means any other individual or entity that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, this party.

“Agreement” means, collectively, the Quote and the Product Terms and any documents incorporated therein.

“ASM Parts” means Parts provided by Spectra under the ASM Subscription Service.

“ASM Subscription Service” means the Assisted Self Maintenance Subscription Service, which complements Spectra’s “Next Business Day Support Services” and “Four-Hour On-Site Support Services” by allowing Customer to replace a Part using Parts stored at Customer’s location.

“Authorized Reseller” means a third party that has been authorized in writing by Spectra to market, sell, and distribute Spectra Products in accordance with the terms of a valid distribution or reseller agreement.

“Authorized Service Provider” means a third party that has been authorized in writing by Spectra to perform Professional Services and/or Support Services for Spectra Products.

“Authorized User” means an individual authorized by Customer to access and use the Software or Subscription Services.

“Claim” has the meaning in Section 14.1.

“Confidential Information” means: (a) any confidential, proprietary or trade secret information of the disclosing party (“Discloser”) that if in tangible form is marked as confidential, secret or with a comparable legend or if disclosed orally or visually is identified as confidential at the time of disclosure; and (b) discussions relating to this information. Discloser will use reasonable efforts to mark its confidential information in tangible form as confidential; however, tangible information that does not bear a legend will be protected as Confidential Information if the receiving party (“Recipient”) knew or should have reasonably known under the circumstances that the information is confidential.

“Control” (and with correlative meanings, the terms “Controlled by” and “under common Control with”) means, regarding any individual or entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of another individual or entity, whether through the ownership of voting securities, by contract, or otherwise.

“Customer” means the individual or entity listed as “Customer” on the Quote or its permitted successor or assign. However, under the Limited Warranty, Customer means only the original end user that purchases the Spectra Products from Spectra or an Authorized Reseller.

“Customer Artwork” has the meaning in Section 5.3.

“Defect” or “Defective” means a nonconformity or failure of the Hardware, Parts, Accessories or Software to operate in accordance with the applicable Limited Warranty. In the case of Hardware, Parts and Accessories, a Defect includes physical failures, design flaws or functional nonconformities under normal operating conditions. In the case of Software, a Defect includes reproducible failures to perform in accordance with the Product Specification when properly installed and used in accordance with the Documentation.

“Deliverable” means any item, report, documentation or other output that Spectra is required to provide Customer under a Statement of Work.

“Delivery” means the transfer of possession of a Spectra Product to Customer, as further described in Sections 4.4(a) and (b).

“Designated Site” means the specific location and Hardware where the Software may be installed, accessed, or used.

“Discloser” has the meaning in the definition of Confidential Information.

“Disk Systems Supportable Lifespan Policy” means that Disk Systems Supportable Lifespan Policy available at <https://support.spectralogic.com/services-and-contracts/disk-systems-supportable-lifespan-policy>.

“Documentation” means all generally available documentation relating to a Spectra Product, including all Product Specifications, user manuals, operating manuals and other instructions, documents and materials, in any form or media, that describe any component, feature, requirement or other aspect of a Spectra Product, including any functionality, testing, operation or use thereof, as same may be revised by Spectra from time to time.

“Effective Date” means the effective date of this Agreement, which is the date that Customer accepts the Quote.

“Effective Period” has the meaning in Section 3.1(a) and is set forth in the Quote.

“Firmware” means software programs that are embedded in Hardware and are necessary for the Hardware to perform its basic functions.

“Freight Fees” has the meaning in Section 4.3.

“Hardware” means tape libraries, other storage platforms, appliances and other hardware offered by Spectra, but excluding Accessories.

“Hybrid Solution” means a solution that consists of Hardware, Software and Support Services where Customer purchases the Hardware up front and related Subscription Services on a subscription (term) basis.

“Initial License Term” means the initial License Term for a Software, as set forth in the Quote.

“Initial Subscription Term” means the initial Subscription Term for Subscription Services, as set forth in the Quote.

“Initial Support Term” means the initial Support Term for Support Services, as set forth in the Quote.

“Intellectual Property Rights” means all past, present, and future trade secret rights, patent rights, copyrights, moral rights, contract rights, trademark rights, service marks, and other proprietary rights in any jurisdiction, including those

rights in inventions, software, domain names, know-how, technology, methods, processes, information, and technology.

“License Model” means perpetual or subscription (term), as set forth in the Quote.

“License Term” means the period during which Customer is authorized to use the Software, including the Initial License Term and any Renewal License Term.

“Limited Warranty” means the limited warranty offered by Spectra for Spectra Products available at <https://spectralogic.com/limitedwarranty/>, as same may be revised by Spectra from time to time.

“Maintenance Materials” means all Spectra maintenance equipment, tools, tool bags, SD cards, ASM Parts, Documentation and test and verification routines and outputs.

“Maintenance Release” means any update, patch or version of the Software that is provided by Spectra as part of standard Support Services and that includes bug fixes, error corrections, security patches, and minor performance improvements or enhancements that do not materially alter the core functionality of the software.

“Media” means a storage cartridge that houses magnetic tape in LTO format.

“New Version” means any new version of a Software licensed by Customer that Spectra may from time to time introduce and market generally as a distinct licensed product (as may be indicated by Spectra's designation of a new version number), and which Spectra may make available to Customer at an additional cost under a separate Order or other written agreement.

“Non-Excludable Rights” has the meaning in Section 11.4

“Order” means an order to purchase Spectra Products, as evidenced by a Quote and subject to the terms and conditions set forth in this Agreement.

“Part(s)” means a part, individual component, subassembly or module of the Hardware or Accessories.

“Permitted Use” means internal business purposes.

“Preventive Maintenance Services” means a Support Services offering that provides preventive maintenance for Hardware.

“Privacy Notice” means the Privacy Notice available at <https://spectralogic.com/privacynotice/>, which describes how Spectra handles personal information.

“Product Specification” means the written description, documentation, technical data sheet, or other materials provided by Spectra that define the features, functions and other technical or operational characteristics of a Spectra Product.

“Product Terms” means these Product Terms and Conditions, as same may be revised by Spectra from time to time in accordance with Section 17.2.

“Professional Services” means installation, training or other professional services provided by Spectra or its Authorized Service Provider.

“Purchase Order” means a written or electronic order or other terms and conditions issued by Customer to Spectra for the purchase or license of Spectra Products.

“Purchase Price” means the price to purchase or license Spectra Product(s), as may be set forth in a Quote.

“Quote” means a quotation, prepared by Spectra, that sets forth the Spectra Product(s) and related Purchase Price(s) that Spectra offers to sell or license to Customer.

“Recipient” has the meaning in the definition of Confidential Information.

“Renewal” means the renewal or extension of a License Term, Subscription Term or Support Term.

“Renewal License Term” means each successive period following the Initial License Term during which Customer is authorized to continue to use the Software.

“Renewal Subscription Term” means each successive period following the Initial Subscription Term during which Customer is entitled to continue received Subscription Services.

“Renewal Support Term” means each successive period following the Initial Support Term during which Customer is entitled to continue received Support Services.

“Renewal Term” means a Renewal License Term, Renewal Subscription Term and/or Renewal Support Term.

“RMA Process” means Return Merchandise Authorizations process established by Spectra for the handling and resolution of returned Spectra Products and Parts under the Limited Warranty and Support Services, available at <https://support.spectrallogic.com/services-and-contracts/rma-information>.

“Services” means Professional Services and/or Support Services.

“Shipping Method” means the type of transport and service level, as set forth on the Quote if applicable.

“Shipping Term” means trade term defined by the INCOTERMS rules, as set forth on the Quote, if applicable, and as further described in Section 4.4(a)(i).

“Software” means software programs offered by Spectra for license by Customer including, without limitation, Firmware, Maintenance Releases, New Versions and any software developed or delivered by Spectra pursuant to an engagement for Professional Services.

“Special Shipping Instructions” means any “Special Shipping Instructions” set forth on the Quote.

“Spectra Affiliate” mean Spectra Logic Corporation or one of its subsidiaries.

“Spectra” means with respect to this Agreement, the Spectra Affiliate listed on the Quote.

“Spectra Certified Media” means Media processed by Spectra to support the functionality of Hardware.

“Spectra Certified Media Guarantee” means the Spectra Certified Media Guarantee available at <https://spectrallogic.com/mediaguarantee/>, as same may be revised by Spectra from time to time.

“Spectra Personnel” means all individuals involved in the performance of Professional Services or Support Services as employees or contractors of Spectra or any Authorized Service Provider.

“Spectra Product(s)” means Hardware, Parts, Accessories, Spectra Certified Media, Software, Professional Services, Support Services and/or Hybrid Solutions, as set forth on the Quote.

“Statement of Work” or “SOW” means a statement or scope of work that describes the specific services, Deliverables and other relevant terms applicable to a Professional Services offering.

“Subscription Services” means a service provided on a subscription (term) basis that includes the right and license to use Software and tape slots in the Hardware and Support Services related to designated Hardware. Subscription Services are part of a Hybrid Solution.

“Subscription Software” means Software that is licensed on a subscription basis, usually as a standalone product.

“Subscription Term” means the period during which Customer is entitled to receive Subscription Services, including the Initial Subscription Term and any Renewal Subscription Term.

“Support Services” means support and maintenance services for Spectra Products, as more fully described at <https://spectralogic.com/support/>.

“Support Term” means the period during which Customer is entitled to receive Support Services, including the Initial Support Term and any Renewal Support Term.

“TAM Subscription Service” means the Technical Account Management Subscription Service, which complements Spectra’s Next Business Day and Four-Hour On-Site Support Services by providing a dedicated technical account manager among other services.

“Taxes” has the meaning in Section 10.6.

“Third-Party Components” has the meaning in Section 6.9.

“Third-Party Product(s)” means any hardware, software, services or other products that are manufactured or provided by an entity other than Spectra and that are: (a) not included as components in Spectra Products; (b) identified under the third-party brand on a Quote; or (c) not purchased from Spectra. Third-Party Products are subject to the terms and conditions of the applicable third-party provider and are not covered by Spectra’s warranties unless expressly stated otherwise.

“Usage Limits” means any limitation on the usage of Software or Subscription Services, as further described in Section 6.6 with respect to Software and 8.2(d) with respect to Subscription Services.

“WEEE Directive” means Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on Waste Electrical and Electronic Equipment (WEEE), as may be amended, supplemented, or replaced from time to time.