



STANDARD TERMS AND CONDITIONS OF SALE

These BACA Systems, LLC (“BACA”) Standard Terms and Conditions of Sale ("Terms and Conditions") apply to the sale, license, purchase, use, and resale of BACA products ("Products"), systems that incorporate Products ("Systems"), software used in conjunction with Products and Systems (“Software”), spare parts, consumables, and aftermarket products (“Parts”), and services rendered in conjunction with the installation, repair, and maintenance of Products or Systems ("Services"). A valid and binding contract between BACA and a Customer (hereafter the “Agreement”) consists solely of (i) in the case of Products, Systems, and Services, an Order Form signed by BACA and the Customer together with these Terms and Conditions, and (ii) in the case of Parts, an order acknowledgment issued by BACA together with these Terms and Conditions. Consequently, a valid acceptance of any proposals or quotations issued by BACA to sell or license Products, Systems, Software, Parts, or Services is expressly conditioned upon the Customer's written acceptance of these Terms and Conditions. Any purchase order or other ordering document that contains deviations from or additions to these Terms and Conditions is a counteroffer, and unless BACA expressly accepts such terms in writing (which may result in an increase in the quoted price and/or a change in BACA 's quoted delivery timeframe), such counteroffer and the additional terms or deviations are deemed rejected and of no force or effect.

In the event of a conflict or discrepancy between the terms and conditions contained in an Order Form and these Terms and Conditions, the terms and conditions in the Order Form shall govern and control.

Prices; Payment

All prices are quoted and are to be paid in immediately available U.S. funds. Prices do not include sales, excise, use or other similar transaction taxes now in effect or hereafter levied by reason of the Agreement or the transactions contemplated under the Agreement, all of which shall be paid by Customer. Such taxes shall be assessed by BACA against Customer at the time of invoice unless BACA has received a valid exemption certificate or other similar evidence of exemption from taxation in form satisfactory to BACA. BACA reserves the right to invoice for and to collect such taxes if such exemption was or is asserted to be inapplicable or invalid, and Customer indemnifies and holds BACA harmless from and against all penalties, fines, or other liabilities associated with Customer's failure to pay taxes or other levies as required hereunder.

Payment terms are as follows:

- Products and Systems: 50% of price within five (5) days of a fully executed Order Form, and 50% prior to delivery of the Product or System to the freight carrier
- Software: 100% prior to delivery of or access to the Software
- Parts: Payment in full via ACH, wire transfer, or credit card prior to shipment
- Services: Payment in full of the estimated price for the Services via ACH, wire transfer, or credit card prior to commencement of Services. Customer will pay additional amounts owing at the time Services are completed; BACA will refund any overpayment within three (3) business days of completion of Services

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Customer cannot deduct, counterclaim, or set off against the price of or any other amount owing under the Agreement any claim or alleged claim arising out of the Agreement or any other transaction with BACA.

BACA may require Customer to provide a credit card number to secure payment of amounts due, and by providing such number Customer consents to BACA charging the credit card for past due amounts. In all cases, and unless prohibited by applicable law or by the credit card provider's rules, BACA may charge Customer a convenience fee of up to the greater of one hundred dollars (\$100) or three percent (3%) of the amount charged per transaction.

If payment is not received by the due date, a service charge may, at BACA's discretion, be added at the rate of 1.5% per month (18% per year) or the maximum legal rate of interest, whichever is less, to unpaid invoices and other unpaid amounts from the due date thereof. If BACA retains a collection agency and/or attorney to collect overdue amounts, all collection costs, including attorneys' fees, shall be payable by Customer upon demand by BACA.

For companies outside of the United States or Canada, BACA may require that a confirmed irrevocable letter of credit payable at sight to the BACA bank to be named shall be opened before shipment, ensuring payments against documents (commercial invoice, packing list, B/L, and certificate of origin) 90 days from the B/L issuing date. Customer will pay all bank charges associated with the letter of credit.

Freight Terms

All freight charges are the responsibility of the Customer. Unless otherwise stated on an Order Form or in an order acknowledgment freight terms for deliveries within the United States or Canada are FOB BACA facility. Freight terms for deliveries outside of the United States or Canada are EXW (Incoterms® 2020).

Software License; Annual Maintenance and Support

BACA proprietary Software delivered separately or embedded in a Product or System ("BACA Software") is licensed to Customer under the terms of the BACA Software License Agreement found here: bacasystems.com/Software-License-Agreement/.

Third party Software delivered with Products or Systems is licensed to Customer under the terms of the third-party licensor's license agreement which will be provided upon request.

Customer shall pay annual support and maintenance fees in connection with the use of BACA Software and under the terms of the BACA Software Support and Maintenance Agreement found here: bacasystems.com/Support-and-Maintenance-Agreement/.

Modifications of Standard Design

Unless otherwise specified in a quote or proposal, "System" means BACA's standard system design without customization on the date of the quote or proposal. Modifications of the standard System design required for the Customer's specific installation or intended use may result in additional cost to the Customer. BACA can provide pricing to modify the standard System to meet any specific needs upon request.

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Cancellation

Prices outlined in a BACA quote or proposal are firm for thirty (30) days from the date of the quote or proposal; thereafter, they are subject to change without notice, and following such 30-day period Customer should inquire as to the continued validity of such pricing. Customer may cancel an accepted quote or proposal only by paying BACA a cancellation fee as follows: (i) fifteen percent (15%) of the order value if the cancellation fee is received within thirty (30) days of the acceptance of the quote or proposal, (ii) twenty percent (20%) of the order value if the cancellation fee is received between thirty-one (31) and forty-five (45) days of the acceptance of the quote or proposal, and (iii) twenty-five percent (25%) of the order value if the cancellation fee is received more than forty-five (45) days following the acceptance of the quote or proposal.

Export

Customer will not export, re-export, transfer, re-transfer, sell, re-sell or otherwise divert BACA Products, Systems, Parts, or Software contrary to any applicable export control laws and regulations. Customer indemnifies, will defend, and holds BACA harmless from and against all claims or investigations brought as a result of Customer's breach of this provision and all penalties, fines, or other liabilities associated with such claims.

Training

BACA-provided training, if any, is described in an Order Form. **Customer acknowledges and agrees that any training and manuals provided by BACA do not relieve Customer of its obligation to insure proper safeguarding, operation, maintenance, repair and the safe use of BACA Products, Systems, and Software by all users.** If Customer purchases training at Customer's facility, Customer will pay the BACA trainer's travel & living expenses at cost together with a reasonable administrative fee.

Purchase Money Security Interest; Insecurity

Customer grants to BACA a purchase money security interest in all Products, Systems, Parts, or Software ordered, and the proceeds thereof, until final payment has been received. Customer shall sign financing statements evidencing the security interest as reasonably requested by BACA, and Customer grants BACA an irrevocable power of attorney to sign Customer's name to a financing statement if necessary or convenient to perfect BACA's security interest. Upon request Customer shall provide a landlord's waiver of any lien rights at the premises to which the Products or Systems are to be installed. In case of a default by Customer in its payment obligations to BACA, BACA may peaceably enter the Customer premises to repossess or render inoperable all Products, Systems, Parts, and Software in which it has a security interest. Customer shall not sell, exchange, transfer, convey, mortgage, pledge, hypothecate or grant a security interest in any Products, Systems, Parts, or Software or the proceeds thereof (including cash, accounts, contract rights, instruments and chattel paper) which are the subject to this Agreement unless and until payment has been made in full to BACA.

BACA may, upon becoming insecure regarding Customer's performance of its payment obligations, limit or cancel the credit of Customer and may demand payment in cash before delivery of any unfilled portion of this Agreement and may demand assurance of Customer's due performance including without limitation demanding that one or more deposits, letters of credit or other assurance be provided by

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Customer. Upon making such demand, BACA may suspend its performance under the Agreement, including production, shipment and/or deliveries until Customer has provided such assurance. If, within the period stated in such demand, but in no event longer than 30 days, Customer fails to agree and comply with such different terms of payment, and/or fails to give adequate assurance of due performance, BACA may, in its sole discretion and without any requirement to do so, (1) by notice to Customer, treat such failure or refusal as a repudiation by Customer of the portion of this Agreement not then fully performed, whereupon BACA may cancel all further deliveries and the greater of (x) any amounts unpaid hereunder or (y) cancellation fees chargeable under the Cancellation section above shall immediately become due and payable, or (2) make shipment under reservation of a security interest and demand payment against tender of documents of title. These rights are in addition to all other rights BACA has under this Agreement, at law, or in equity, relating to Customer's default in the performance of its obligations under this Agreement.

Limited Express Warranties

Products and Parts: BACA provides to Customer the Product and Parts warranty set forth in the Warranty Policy set out in Appendix A to these Terms and Conditions. Robot and water pump manufacturers each provide their own equipment and Software warranty (if applicable), which are assigned to Customer by BACA upon payment in full for a System incorporating a robot or water pump.

Systems: BACA does not in any manner warrant Systems separate and apart from the Product and Software warranties provided herein, **AND EXPRESSLY DISCLAIMS ANY WARRANTY ON SYSTEMS.**

Software: BACA warrants BACA Software in accordance with warranty terms set forth in the Software License Agreement. Third party Software is warranted in accordance with the license agreements applicable to such Software.

Services: BACA warrants that Services will be performed in a professional and workmanlike manner.

Disclaimers of Warranties and Exclusive Remedies

The limited express warranties provided in these Terms and Conditions are the sole and exclusive warranties provided by BACA for Products, Systems, Parts, Software, and Services.

WITHOUT IN ANY MANNER LIMITING THE PRECEDING, BACA EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES FOR PRODUCTS, SYSTEMS, PARTS, SOFTWARE, OR SERVICES, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE OR FOR INTENDED USE.

Customer's exclusive remedy for a breach of BACA's Product or Part warranty is limited to repair or replacement (at BACA's option) of the defective Product or Part.

Customer's exclusive remedy for a breach of BACA's Services warranty is limited to re-performance of the defective Services.

BACA DOES NOT WARRANT THAT CUSTOMER'S OPERATION OR USE OF ANY PRODUCTS OR SYSTEMS WITHIN CUSTOMER'S WORK ENVIRONMENT WILL COMPLY WITH ANY EXISTING OR FUTURE INDUSTRY STANDARDS, GUIDELINES, OR PROCEDURES (INCLUDING BUT NOT LIMITED TO APPLICABLE ANSI/RIA

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STANDARDS), OR WITH THE REQUIREMENTS OF ANY SAFETY AND ENVIRONMENTAL LAW, CODE, ORDINANCE OR REGULATION OF ANY FEDERAL, STATE, MUNICIPALITY OR OTHER JURISDICTION, INCLUDING BUT NOT LIMITED TO FEDERAL OR STATE OSHA LAWS AND REGULATIONS, UNLESS OTHERWISE SPECIFICALLY PROVIDED IN A SEPARATE WRITTEN AGREEMENT SIGNED BY BOTH THE CUSTOMER AND BACA.

BACA shall not be liable or responsible for any damages arising from shipment, faulty installation, adjustments/repairs, exposure to excessive pressure, temperature or chemicals, or improper application or misuse or abuse of Products, Parts, or Systems caused by any entity or individual other than BACA, including Customer.

BACA shall not be liable or responsible for any damages arising out of any injury caused or allegedly caused by any products or parts manufactured on or with Products, Systems, or Software purchased from BACA.

The express warranties contained herein shall not apply unless and until Customer has paid the Agreement price in full. Customer's misuse of or failure to properly maintain Products will invalidate the express warranties provided herein.

Assumption of Risk; Indemnification; Limitation of Liability

It is Customer's sole responsibility to understand and to adhere to industry standards, guidelines, or procedures (including but not limited to applicable ANSI/RIA standards), safety and environmental laws, codes, ordinances or regulations of any federal, state, municipality or other jurisdiction, including but not limited to federal or state OSHA laws and regulations, applicable to the installation and operation of Products and Systems in Customer's work environment (collectively, "Workplace Requirements"). Customer assumes all duties and obligations, as well as all liability arising out of, complying with and failing to comply with any Workplace Requirements. By selecting the Products and Systems in a quote or proposal Customer is representing and warranting to BACA that it has independently confirmed that the installation and operation of such Products and Systems in Customer's work environment will comply with all applicable Workplace Requirements.

Customer assumes all duties and obligations, as well as any liability arising out of its manufacture of products using Products or Systems, including but not limited to its duty to provide a product which is free from design, manufacturing, and other defects.

Customer shall exonerate, hold harmless, defend and indemnify BACA and its owners, members, directors, officers employees, and agents against any losses, damages, fines, penalties, costs (including without limitation attorneys' fees) incurred as a result of any third-party claim, liability or lawsuit arising out of or related to the design, manufacture, handling, use, distribution and/or sale of any product or part manufactured by Customer on or with Products or Systems. Customer will, at BACA's request, assume the defense of any of the foregoing claim, liability or lawsuit and reimburse BACA for all costs and attorney's fees expended in the defense of such claim, liability or lawsuit.

In response to reasonable requests from Customer, BACA will cooperate with and provide reasonable technical assistance to Customer in defense of any claim, liability or lawsuit against Customer for losses or damages alleging a defect in the design or manufacture of a product or part manufactured by Customer on or with Products or Systems.

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IN ALL CASES AND REGARDLESS OF THE FORM OF ACTION, BACA'S LIABILITY WITH RESPECT TO, ARISING FROM, OR IN CONNECTION WITH CUSTOMER'S PURCHASE OR USE OF PRODUCTS, SYSTEMS, PARTS, SOFTWARE, OR SERVICES IS LIMITED TO THE AMOUNTS PAID OR PAYABLE BY CUSTOMER TO BACA FOR SUCH PRODUCTS, SYSTEMS, PARTS, SOFTWARE, OR SERVICES. WITHOUT IN ANY MANNER LIMITING THE PRECEDING, BACA SHALL NOT IN ANY CASE BE LIABLE OR RESPONSIBLE FOR BACK-CHARGES OF ANY KIND, FOR MATERIALS THAT ARE DAMAGED OR DESTROYED THROUGH THE OPERATION OF PRODUCTS OR SYSTEMS, OR FOR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION THE LOSS OF THE USE OF ANY ASSET, LOSS OF REVENUE, OR LOSS OF PROFIT. THE REMEDIES SET FORTH IN THESE TERMS AND CONDITIONS ARE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE TO CUSTOMER AGAINST BACA.

Confidentiality; Ownership of Improvements

Any drawings, data, designs, software programs, technical information, know how, trade secrets or other proprietary information supplied by BACA to Customer in connection with the sale of any Products, Systems, Software, or Services shall remain BACA's property and be held in confidence by Customer. Such information shall not be reproduced or disclosed to others without BACA's prior written consent. Customer acknowledges that BACA would be irreparably harmed by the disclosure of such information in violation of this Agreement and BACA shall be entitled to injunctive relief in the event of any breach or threatened breach of this paragraph.

BACA will own the technology and intellectual property rights in all improvements, enhancements, modifications, and alterations made to Products, Systems, Parts, or Software during the performance of this Agreement ("Improvements"), including without limitation those made based on Customer's specific requirements, and Customer expressly waives any rights in or claims to any such Improvements. Customer agrees to cooperate, at BACA's cost and expense, in undertaking actions necessary to secure BACA's rights in Improvements.

Amendment or Modification

The Agreement is the complete and exclusive statement of the contract between Customer and BACA and supersedes all previous correspondence, quotations, and/or agreements relating to Products, Systems, Parts, Software, or Services that are the subject of the Agreement.

No amendments, modifications, supplements, limitations, waivers, or discharges of this Agreement or any of its terms shall bind BACA unless in writing and signed by an authorized representative of BACA, making express reference to amending the Agreement. No agent, employee, or representative of BACA has any authority to sign and bind BACA with respect to any of the foregoing (including without limitation any representation or warranty not contained in this Agreement concerning Products, Systems, Software, or Services), unless expressly authorized by BACA to do so.

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Governing Law and Jurisdiction

This Agreement is governed by and will be interpreted and enforced in accordance with the laws of the State of Michigan, U.S.A., without regard to conflict of laws principles. Customer consents to the exclusive jurisdiction of the state and federal courts located in Oakland and Wayne County, Michigan, over any matter arising from or related to this Agreement, any Products, Systems, Parts, Software, or Services purchased under this Agreement, or Customer's relationship with BACA ("Disputes"). Customer and BACA each waives the right to a jury trial for Disputes and agrees that all Disputes will be resolved through bench trial. Customer and BACA each waives and disclaims application of the UN Convention on Contracts for the International Sale of Goods to the Agreement or to any Dispute.

If Customer is located outside of the United States or Canada but in the Western Hemisphere, Customer consents to the exclusive jurisdiction of the state and federal courts located in Dade County, Florida, U.S.A., for resolution of all Disputes.

If Customer is located outside of the United States or Canada but in the Eastern Hemisphere, Customer consents to the exclusive jurisdiction of the state and federal courts located in New York, New York, U.S.A., for resolution of all Disputes.

Assignment

This Agreement and Customer's rights and obligations hereunder may not be assigned, pledged, hypothecated, or otherwise transferred by Customer except with the prior written approval of BACA, which shall not be unreasonably withheld or delayed. BACA may assign this Agreement and its rights and obligations hereunder to a third party, without Customer's approval.

Severability

If any provision of this Agreement shall be held to be unenforceable or invalid, such provision shall be ineffective to the extent of such prohibition or invalidity, and the balance of this Agreement shall be interpreted as if such provision were so excluded.

Force Majeure

No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("**Impacted Party**") reasonable control, including, without limitation, the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, epidemics or pandemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, inactions, or actions, including but not limited to those related to the issuance of work visas or permits; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other similar events beyond the reasonable control of the Impacted Party.



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Language

This Agreement is drafted in the English language. If this Agreement is translated into any other language, the English language version shall prevail.



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APPENDIX A

WARRANTY POLICY

Subject to the terms, limitations and exclusions set forth below and to the warranty disclaimers set forth in the Agreement into which this Policy is incorporated, BACA Systems, LLC (“BACA”) warrants to the Customer that Products supplied by BACA will be free from defects in material or workmanship for a period of twelve (12) months from the date of delivery to the carrier at the BACA facility (the “Warranty Period”). This warranty does not apply to the following Products, which are covered by the particular manufacturer’s warranty:

Robots

Waterjet Pumps

For this Product warranty to remain valid (i) all installation of the Products must be performed by qualified BACA-approved technicians, and (ii) Customer must adhere to published maintenance and service schedules for the Product contained in BACA Documentation. Unless otherwise expressly agreed to in writing by BACA, installation, maintenance, or service of Products not performed by qualified BACA-approved technicians voids the applicable Product warranty.

This warranty is valid for Products installed in the contiguous United States and Canada. For Products installed outside of the contiguous United States or Canada BACA’s warranty obligation shall be limited to providing replacement parts only.

BACA shall correct a covered warranty defect by, at the option of BACA, repair or replacement of the nonconforming Product. Refurbished or factory remanufactured Products or components thereof may, at the sole discretion of BACA, be utilized in repairing or replacing the nonconforming Product.

Procedure for Warranty Claims:

1. Customer shall give BACA prompt written notice of any Product nonconformance appearing during the Warranty Period.
2. Following receipt of notice within the Warranty Period BACA will either (i) issue a return authorization number for the nonconforming item, or (ii) if the nature of the defect is such that it is necessary in the judgment of BACA to make a repair at the Customer facility, the Customer shall be required to issue a purchase order requesting a field service visit.
3. For returned items: (i) if BACA confirms nonconformance of the item with the warranty BACA will either repair or replace the item and return it to Customer at

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- BACA's sole cost and expense, or (ii) if BACA determines that the defect in the returned item is not due to nonconformance with the warranty, BACA will provide Customer with a quote for the repair or replacement of the item.
4. For on-site service, if BACA determines that the issue is not due to nonconformance with the warranty (e.g., misuse by the Customer), (i) Customer will be responsible for labor costs and travel and living costs incurred in determining that the issue is outside of warranty coverage, (ii) BACA will provide Customer with a quote for labor and parts necessary to repair or replace the affected Product.
 5. All items that are replaced under warranty are to be returned within fifteen (15) days of replacement for credit to be applied to Customer's replacement order.

Warranty repairs or replacements shall not renew or extend the warranty period of the affected Products. Replaced Products or parts shall become the property of BACA.

A precondition for this Products warranty to remain valid is that the required maintenance and service intervals stipulated for each Product are properly performed by qualified BACA approved technicians. This cost of routine maintenance and service is not included in the warranty.