



**SPENCER TECHNOLOGIES, INC.**  
**TERMS & CONDITIONS**  
VER. 2025-1

**Spencer Technologies, Inc.**, a Delaware corporation (“**Spencer**”), and the applicable customer (“**Customer**”), hereby agree the following terms and conditions (this “**Agreement**”) shall apply to all services to be performed by Spencer on behalf of Customer (the “**Services**”), and all materials and equipment provided by Spencer on behalf of Customer (the “**Equipment**”) in connection with any purchase order, statement of work, or other similar writing between Customer and Spencer (each, a “**PO**”).

**GENERAL**

**Designated Contact.** Spencer shall designate a person to act as project manager (the “**Spencer PM**”). The Spencer PM will be the main point of contact for Customer for all purposes in connection with this Agreement, the Services, and the Equipment, including any associated escalation communications. Customer shall designate a person as the main point of contact for all communications in connection with this Agreement, the Services, and the Equipment.

**Progress Billing; Invoices.** Unless otherwise set forth on the applicable PO, Customer shall pay for installation and construction projects (not including Equipment sales or other Services) through progress billing as follows: (i) 25% of the quoted amount due prior to the commencement of the Services or delivery of any Equipment; (ii) 50% upon 50% Services completion and Equipment delivery; and (iii) final payment upon Services completion or Spencer’s final invoice. Equipment shall be invoiced once received at Spencer facility or any affiliated warehouse.

Spencer shall invoice for base scope of work once completed. If change orders are pending approval, base scope of work will be invoiced separately. Change orders shall be invoiced once work is complete and change order has been approved.

**Payment Terms.** All Spencer invoices shall be paid net 30 from the date of invoice. Unless expressly noted otherwise, the amounts due from Customer as shown on the PO are exclusive of applicable fees, taxes, tariffs, duties, and assessments imposed by local, state, and federal authorities, all of which Customer shall pay at its sole expense. Customer may not offset, credit, or reduce any amounts due in connection with any invoice.

**Unforeseen Delays; Out of Scope Services.** Any unforeseen delays or out of scope issues will be escalated by the Spencer PM to the Customer contact. In the event that: (i) there is an unforeseen delay caused in whole or in part by any reason outside of Spencer’s reasonable control; or (ii) Customer requests Services or Equipment outside of the scope set forth in the applicable PO,

Spencer shall bill Customer therefor at Spencer’s then-published “Out of Scope Rates”.

**Pricing Updates.** Spencer reserves the right to modify its pricing at any time. Pricing changes will not affect orders already accepted through a PO or contract, unless otherwise agreed in writing.

**Shipping.** Shipping charges will be billed based on cost, unless quoted otherwise or charged to a Customer-supplied shipping account number (if available). Unless otherwise expressly agreed by the parties in writing, Spencer shall deliver all Equipment to the address specified in the applicable PO. All Prices are FOB (Incoterms 2010) shipping terms.

**Force Majeure.** Neither party shall be liable for its failure to perform hereunder if due to any contingency beyond the reasonable control of such party, including but not limited to acts of God, acts of government, mandated travel restrictions, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, inability to obtain necessary supplies, and the like.

**Hours.** Unless otherwise set forth in the applicable PO, Services will be performed during standard business hours (Monday through Friday, 8AM to 5PM (local time)). Additional charges may be incurred in the event that Services are required to be performed off-hours or during weekend or holiday hours.

**Scheduling.** Spencer requests at least two weeks of lead time from the date of PO to Services commencement to ensure proper scheduling. Expedited requests will be handled on a best-effort basis.

**Equipment Return Policy.** Regular Equipment orders may be returned if unopened and in original packaging within 14 days of Customer’s receipt and Spencer consent via RMA. Customer is responsible for obtaining an RMA from Spencer. No returns will be accepted without an RMA. All returns are subject to a 20% restocking fee. Customer is responsible for all return freight charges.



Spencer reserves the right not to accept a return even if an RMA has been issued, based upon Equipment condition upon receipt by Spencer.

**Limitation of Liability.** To the greatest extent permitted by law, in no event, whether in contract, warranty, indemnity, tort (including but not limited to negligence), strict liability, or otherwise, arising directly or indirectly out of the performance of the Services or the Equipment, shall Spencer be liable for: (i) any incidental, indirect, punitive, special, consequential, or similar damages such as loss of use, lost profits, attorneys' fees, or delay damages, even if such damages were foreseeable or caused by Spencer's breach of this contract; (ii) any claim that properly is a claim against a manufacturer; or (iii) any amount exceeding the amount paid to Spencer for Services or Equipment furnished to Customer that are the subject of such claims. All claims in connection with this Agreement, the Services, and the Equipment must be brought within one year of accrual of a cause of action.

**Successors and Assigns.** The Agreement shall be binding upon and shall endure to the benefit of the parties hereto and their respective successors and permitted assigns.

**Independent Contractor.** Spencer is, and shall perform the Services under this Agreement as an independent contractor.

**Governing Law; Venue.** This Agreement shall be interpreted under the laws of the Commonwealth of Massachusetts without reference to its choice of law provisions. The parties consent to the exclusive jurisdiction of the state and federal courts for the Commonwealth of Massachusetts in connection with any action arising out of or relating to this Agreement.

**Termination.** In the event of a breach of any Customer obligation hereunder, including without limitation any payment default, Spencer reserves the right to cease performing the Services, terminate the applicable PO, or terminate this Agreement.

**Effect of Termination.** In the event that this Agreement is terminated prior to the completion of the Services with a written notice of 30 days, Spencer shall deliver a final invoice based on Spencer's selling price, and Customer shall pay, for all work in process performed and expenses incurred by Spencer and all Equipment purchased by Spencer up to the date of termination. Notwithstanding the foregoing, payment of such invoice shall not limit Spencer's legal and equitable remedies for any breach of this Agreement, including without limitation damages.

**Remedies.** All of the rights and remedies available to Spencer under this Agreement are in addition to, and not in limitation of, the rights and remedies otherwise available thereto at law or in equity. The rights and remedies of Spencer hereto are cumulative and not alternative.

**Entire Agreement.** Any amendment to or modification of this Agreement, or any waiver of any provision hereof, shall be in writing and signed by the parties hereto. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous written and oral agreements, representations, and communications between the parties relating to the subject matter hereof. Any separate written agreement purporting to supersede this Agreement shall specifically reference that it intends to supersede this Agreement, and shall only supersede this Agreement to the extent that it references the provisions which it intends to supersede.

## CUSTOMER OBLIGATIONS

**Site Access; Site Requirements.** Customer acknowledges and agrees that Spencer will be required to access Customer's premises (the "Site") to install the Equipment. Customer shall: (i) provide adequate space and facilities at the Site for any Equipment to be installed; (ii) permit Spencer to enter into and access the Site to perform the Services; (iii) ensure that at the Site: (a) all cable paths are open and free of obstructions; (b) conduit is pre-installed and includes pull string; (c) concrete walls and/or floors pre-cored; (d) all conduit and raceway materials are in place; and (e) existing building structure sufficient for supports.

**Change Orders.** In the event that Spencer is required to perform additional Services to make the Site compliant

with the Site requirements set forth above, Spencer shall first provide Customer with a change order setting forth the required changes to the Services and Equipment and the applicable changes to the time and pricing for the installation (each, a "Change Order"). Customer shall have five days following the receipt of a Change Order to reject a Change Order in writing. In the event that Customer accepts the Change Order or does not reject the Change order within such five-day period, Spencer shall perform the Services and provide the Equipment set forth in the Change Order and shall bill Customer therefor at Spencer's then-published "Out of Scope Rates".

**Legal Compliance.** It is Customer's responsibility to ensure compliance with all applicable building codes,

zoning ordinances, covenants, conditions, and restrictions related to the Equipment and the Services, to pay any fees or other charges, and to obtain any approvals, permits, or authorizations necessary for the performance of the Services and the installation or use of the Equipment (collectively “**Legal Requirements**”). Customer will be solely responsible for any fines or similar charges for violation of any applicable Legal Requirements. Any permit fees required to be paid by Spencer will be passed on to Customer at cost plus 20%. In the event that Spencer is required to perform any labor to acquire such permits, Spencer shall bill Customer therefor at Spencer’s then-published “Out of Scope Rates”.

**Union Sites.** A Site requiring union labor will be billed at the local union rates plus 20%.

**Additional Services.** Customer acknowledges that Spencer’s pricing does not include “as-builts” or demos.

In the event that Customer requests that Spencer perform these (or other) additional Services, to the extent that Spencer agrees to perform the same, Spencer shall bill Customer therefor at Spencer’s then-published “Out of Scope Rates” or such other rates as Spencer may determine is reasonable depending on the requested additional Services.

**Indemnification.** Customer shall indemnify and hold Spencer and its directors, officers, employees, attorneys, accountants, and agents harmless from and against any and all liabilities, loss, costs, or damages (including attorneys’ and accountants’ fees necessarily incurred in defending or prosecuting any claim for any such liability, loss, cost, or damage) resulting from or by virtue of a breach of any covenant, representation, or warranty of Customer contained herein. The foregoing indemnification obligations shall survive the termination of this Agreement.

#### LIMITED WARRANTIES

**Warranty Disclaimer.** Except as expressly set forth herein, Spencer hereby disclaims all implied warranties, including without limitation any implied warranties of merchantability or fitness for a particular purpose regarding the Services. Statements made relating to the installation, made prior to the date of the applicable PO, are not warranties. It is understood that such statements were not intended to, and did not, form a part of this Agreement.

**Warranty Exclusions.** If any work is completed outside of local, state, federal, EIA, IEEE, ISO, or NEC code as identified by Spencer, but approved by Customer, all warranties will be nullified. Spencer’s warranties do not cover: (i) damage caused by accident, abuse, mishandling, or vandalism; (ii) any cable, systems, or hardware that have been subject to repair by third parties; (iii) damage due to failure of electrical power, sprinkler, or humidity control; (iv) damage due to fire, water damage or acts of nature; (v) manufacturer defects or other third-party related software issues; (vi) costs for warranty or third-party repair administration; or (vii) issues that had been attempted to be corrected by Customer or a third-party.

**Limited Warranties.** Any warranty issues need to be escalated to the Spencer PM. Spencer will use commercially reasonable efforts to provide responses to warranty escalations within 10 business days (not including any lead-time for freight transit or product manufacturing or supply chain lead-times). Spencer provides the following limited warranty on the Services and the Equipment as follows:

- **Production Services Warranty.** If within 30 days from the date it is deployed from a Spencer facility an asset experiences issues related specifically to production Services Spencer has provided (*i.e.*, staging, configuration, application loading, key injection, and/or kitting), Spencer will remedy those production issues to the original scope of work specifications at no additional charge to Customer.
- **Repair Services Warranty.** For any repair part used in repair services, if within 12 months from the date it is deployed from a Spencer facility the asset experiences issues, Spencer will remedy those issues (and only those issues) to the original scope of work specifications at no additional charge to Customer. Repair service warranties shall apply only as to the scope of the repair.
- **Field Services Warranty.** If within 30 days from the date a field service event is complete and the site has been turned over and signed off by Customer it is determined the field service event was not completed to the original scope of work specifications, Spencer will revisit the site and remedy those issues to the original scope of work specifications at no additional charge to the Customer.
- **Low Voltage Cabling Installation Warranty.** If within 12 months from the date of installation or the date of substantial completion, whichever earlier, any Spencer-provided network cable fails due directly to a defect in workmanship, Spencer will, in its sole discretion, repair or replace the failed cable free of



charge. If a technician is sent to site and the problem is found to be due to non-Spencer related issues, the call will be billable to Customer per the Out of Scope rates noted in the applicable PO or other applicable pricing schedule. Spencer will honor all cabling manufacturer's warranties for their individual product lines; provided, however, that Spencer must sign off on these warranties prior to the start of any Services.

- **Hardware Warranty.** Warranty entitlement and administration for 3rd party products re-sold to Customer will be the sole responsibility of Customer for the acts of entitlement and warranty administration. Spencer is not liable for any warranty agreements and/or commitments made by the Original Equipment Manufacturer (“OEM”) and any agreements and/or commitments are considered to be between the Customer and the OEM.