

## **TERMS AND CONDITIONS OF SALE**

VMI, a Varex Imaging Company ("VMI")

### **1. Applicable Terms and Conditions**

These Terms and Conditions of Sale, including any exhibits, schedules, addenda, and other attachments (collectively, the "**Agreement**"), shall govern VMI's furnishing of all products ("**Products**"), including hardware products manufactured by VMI ("**VMI Hardware**") and software products created or licensed by VMI or provided to Customer by VMI under the terms of a VMI Support Schedule or agreement, if any ("**VMI Software**"), and services ("**Services**") identified in the applicable VMI quotation ("**Quotation**") issued to the customer identified in such Quotation ("**Customer**"). The Software Schedule, if applicable, shall govern all VMI Software other than firmware and operating system software loaded on VMI Hardware. The Support Schedule, if applicable, shall govern all Services. While VMI may acknowledge receipt of a purchase order issued by Customer by signing and returning it, any Customer terms and conditions in any specific order documentation, preprinted or otherwise, are expressly rejected by VMI and shall be inapplicable and shall not modify this Agreement.

### **2. Quotations and Prices**

(a) A Quotation shall expire at the end of the period identified in the Quotation. A Quotation to a non-U.S. customer shall be considered a solicitation for an offer to purchase. (b) VMI's prices exclude, and Customer shall be responsible for, all ordinary and necessary charges incidental to the sale incurred by VMI and billed by VMI to Customer, including but not limited to charges for all taxes or levies of whatever nature arising out of or in connection with this Agreement, including the sale, delivery, ownership, or use of the Products or performance of the Services, but excluding taxes based on VMI's net income. Customer shall reimburse VMI in full for any such taxes or levies that are paid in advance by VMI for Customer. If Customer asserts that any transaction under this Agreement is tax exempt, Customer shall provide to VMI a tax or levy exemption certificate acceptable to the applicable taxing or levying authority. The total price to Customer shall be adjusted to include costs of transportation, special packing, and insurance incurred by VMI in accordance with agreed shipping and risk terms. (c) VMI's acceptance of any order and VMI's performance are expressly conditioned upon Customer's compliance with all applicable codes, regulations, and recommendations of competent health or radiation-protection authorities affecting Products or installation and use of the Products, and VMI's approval of Customer's credit. (d) Customer shall disclose the dollar value of any discounts or reductions in price for the Products and Services furnished by VMI in Customer's costs claimed or charges made to any other federal, state, or local program providing reimbursement to Customer.

### **3. Payment**

The payment schedule and payment terms are set forth in the Quotation or contract agreed to in writing and signed by an authorized representative of VMI, provided, however, that if installation is not completed until six (6) months after delivery of the Product pursuant to item (4) in Section 8, then all remaining unpaid balances shall become immediately due regardless of the payment schedule in such Quotation or contract. VMI may charge interest for past due balances up to the maximum amount permitted by applicable law. For partial shipments, Products will be billed when shipped. VMI may cancel or delay delivery of Products when Customer's payments are late under any orders with VMI. VMI shall retain a purchase money security interest in all Products until Customer has made payment in full to VMI of all sums due, including late fees and collection costs. Customer agrees to execute any financing statements or other documents requested by VMI, which may be reasonably necessary to perfect such security interest. All down payments, if any, are non-refundable, and VMI shall retain them as damages for unauthorized termination or cancellation.

### **4. Transportation and Risk of Loss**

Except as otherwise provided in this Agreement, or in accordance with expressly agreed Incoterms 2010, all shipments are EXW (Incoterms 2010) VMI's factory with VMI selecting the transportation company. VMI may insure to full value of Products shipped at Customer's expense or declare full value to the transportation company at time of shipment.

### **5. Architecture**

VMI will have no approval or other responsibility for any matter affecting or related to the adequacy of Customer's operation or service licensing, operating permit, architectural design, system design, the radiation protection walls and barriers, viewing devices, compliance with all facility personnel safety devices

and related inspections, utility service design and location, and other details pertaining to Customer's site or location of operation.

## **6. Installation**

This Section applies only if Customer is purchasing installation services from VMI in connection with the acquisition of VMI Products. Except as otherwise agreed, Customer shall provide all labor and rigging services to unload the Product and any related equipment from the transport vehicle and move them to their final positions. Customer will be responsible for moving the product into place and the connection of the Product to the utilities, and VMI will notify Customer approximately ninety (90) days prior to scheduled Product shipment to allow Customer to provide for and coordinate rigging services, unloading, and final positioning. A VMI representative will monitor the movement, final positioning, and connection of the Product. Customer is responsible for having all building, utilities, lighting, ventilation, air conditioning, mounting facilities, all radiation shielding, and access to the room completed on the estimated delivery date and ready for installation of the Product. Where VMI supervises such work, VMI shall act solely as Customer's agent and shall have no responsibility or liability of any kind for such work. If delays in completion of such work delay installation, Customer will reimburse VMI at VMI's standard service rates for any extra time and/or travel by VMI made necessary by the delay. VMI shall have no obligation to operate Products to complete installation or testing unless Customer has provided adequate radiation shielding protection and other site preparations for the safety and protection of Customer's and VMI's personnel and Products. Upon completion of installation, VMI's representatives will demonstrate proper machine operation by performing VMI's standard test procedures. Customer shall provide a representative who shall be present at all times during installation and be capable of assisting where necessary. When no representative is present or assistance from Customer is not available when required by VMI, VMI may discontinue installation and shall charge Customer for any additional costs incurred including VMI's standard service rates. Should completion of installation be delayed due to union action or influence, Customer shall, as soon as possible, make such arrangements as may be necessary for Customer to carry out the work at Customer's expense under the engineering supervision of VMI. Except as otherwise expressly provided by VMI in published Specifications or specific VMI offers, Customer shall be responsible for obtaining all licenses or permits and for meeting all requirements relating to applicable foreign, federal, state, and local codes, registrations, regulations, statutes, and ordinances affecting or relative to the Products, including the Products use and services.

## **8. Completion of Installation**

Within three (3) days of delivery, Customer shall examine fully the Product delivered and make all applicable complaints and claims arising out of such delivery to the carrier in writing, and shall provide a copy to VMI. After six (6) months after delivery of the Product VMI shall no longer be required to provide installation services.

## **9. Cancellations and Modifications**

No order accepted by VMI may be terminated, canceled or modified by Customer except by prior mutual agreement in writing. Where Customer breaches this clause, Customer agrees to pay to VMI all damages incurred by VMI, including a charge determined solely by VMI to cover the reasonable costs of processing, order handling, retesting, repackaging, lost profits, and other damages as determined in accordance with applicable law and this Agreement.

## **10. Use Restrictions**

Customer shall not decompile, disassemble, or reverse engineer any part of VMI Hardware or Software except to the extent such prohibition is void under applicable law.

## **11. Firmware and Operating Systems**

The Product may contain internal system code that executes below an external user interface and which is integral to the operation of the Product ("**Firmware**"), as well as operating system software ("**Operating Systems**"). VMI, or its suppliers, own all Firmware and Operating Systems. Except where such Firmware or Operating System is owned by a third party which licenses it directly to Customer, VMI hereby grants Customer, only for so long as Customer shall own the Product, a limited, personal, non-transferable, non-exclusive license to use the applicable Firmware and Operating System as part of the normal operation and maintenance of the Product. Customer shall not otherwise copy, print, alter, decompile, disassemble, reverse engineer, decode, or translate the Firmware or Operating System except to the extent such prohibition is

void under applicable law. Customer agrees that these provisions shall also apply to any copies of Firmware and Operating Systems in VMI products that Customer acquires from third parties.

## **12. Third Party Products**

VMI may resell or license third party Products. Where such Products are sold or licensed on a stand-alone basis or provided on a stand-alone basis as replacement parts, they may be delivered to Customer with such third party supplier's usage guidelines and restrictions, software licenses, and/or warranties. In such situations Customer agrees that its use of such third party Products shall be subject solely to such third party supplier guidelines, restrictions, and licenses. Third party supplier warranties shall be governed by Section 14 (Warranty).

## **13. Proprietary Notices and Confidentiality**

VMI or VMI's licensors own all right, title, and interest (including without limitation all intellectual property rights) in and to all drawings, designs, specifications, manuals, and software furnished by VMI to the Customer. All such materials and software are furnished in confidence to Customer, except as may be found in the public domain, and shall be held in strict confidence by Customer with the same degree of care with which Customer protects its own confidential information, but in no event less than reasonable care. Customer shall not remove, alter, or obscure any copyright, trademark, trade secret, government restricted rights, or other proprietary or confidentiality notices or legends from any copy of such materials and software that are (i) placed or embedded by VMI or its licensors in the software, (ii) are displayed when the software is run, or (iii) are applied to the Products, their packaging, labels, or any other materials provided under this Agreement.

## **14. Warranty**

**Warranty for VMI Hardware:** VMI warrants that VMI Hardware and any Firmware and Operating System loaded on such VMI Hardware, except Firmware or Operating System owned and licensed by a third party directly to Customer, to be free from defects in material and workmanship and in substantial compliance with operational features of VMI's published specifications for the applicable Product at the time of sale ("**Specifications**"). This warranty shall begin upon completion of installation and continue for a period of one year from such date. In lieu of the foregoing periods, specific components of VMI Hardware may have different warranty periods, prorated replacement credits, and return policies, as stated on the applicable VMI warranty forms supplied by VMI to Customer with this Agreement. Weights and dimensions in the Specifications are approximations. Clerical and typographical errors are subject to correction. Occasionally, VMI may substitute remanufactured parts and components that meet the same quality standards as other materials and are covered by the same warranty. Parts for which VMI has provided replacements shall, at VMI's option, become the property of VMI.

**Warranty Remedies:** Customer's sole and exclusive remedy for any failure of VMI Hardware or Firmware or Operating System under this Section to perform shall be repair or, at VMI's option, replacement of such defective Products in whole or in part during VMI's normal business hours. If in VMI's sole opinion such repair or replacement is not feasible, or if such remedy fails of its essential purpose, VMI may refund or credit a portion of any sums paid by Customer for the defective Product. In-warranty repair or replacement parts are warranted only for the unexpired portion of the original warranty period.

**Warranty for Software and Services:** Warranties for VMI Software, excluding Firmware and Operating Systems loaded on VMI Hardware, and Services, if any, shall be as set forth in the Software Schedule and Support Schedule, respectively.

**Exclusions from Coverage:** Any warranty or liability is excluded where the warranty claim, in VMI's reasonable opinion, arises out of (1) accident or neglect, (2) use of the Products in a manner not authorized by VMI, (3) lack of routine care or maintenance as indicated in any VMI operating or maintenance instructions, (4) failure to test and calibrate the Product on a regular basis, (5) failure to use or take any proper precautions under the circumstances, or (6) user modification of any Product.

**Other Supplier Warranties:** Warranties given by other suppliers of equipment, accessories, components, or computer software not normally provided by VMI as part of its standard product offerings, which warranties are expressly made available by the supplier to be passed on to the Customer, shall be passed on by VMI as designated by the applicable supplier to Customer, subject to all limitations imposed on VMI by the supplier. In no event shall VMI have any liability with respect to such third party equipment, accessories, components,

software, or warranties provided by such other suppliers, nor shall VMI have any liability for failure of such suppliers to perform on their warranties.

**EXCLUSIONS OF IMPLIED WARRANTIES:** THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF AND EXCLUDES ALL OTHER EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, OR CONDITIONS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE.

#### **15. Intellectual Property Infringement**

VMI shall defend, at its expense, any third party claim brought against Customer that the design or manufacture of any VMI Hardware or VMI Software furnished by VMI to Customer under this Agreement infringes any patents or other intellectual property rights of the country where Customer takes delivery of the Product ("**Claim**"), and shall pay any settlement and any damages, costs, and attorneys' fees finally awarded against Customer arising out of a Claim; the foregoing is conditioned upon Customer notifying VMI immediately in writing of the Claim, giving VMI sole control of the defense, management, and settlement of the Claim, and, upon request, at VMI's cost, reasonably cooperating with VMI in such defense. If (1) such Product's use is enjoined as a result of any Claim, or (2) in VMI's opinion, such Product is likely to become subject to a Claim, VMI shall, at its expense and sole option, (a) modify the Product so that it becomes non-infringing; (b) procure for Customer the right to continue to use the Product; (c) substitute for the infringing Product another product having a functionality equivalent to the Product; or (d) accept return of the Product and refund its purchase price, less reasonable depreciation. VMI EXPRESSLY EXCLUDES from liability and Customer shall indemnify and hold VMI harmless from: (1) settlements and their related costs and expenses where Customer settles Claims without VMI's prior written consent; and (2) any Claims arising out of (i) use of the Product in a manner not authorized by VMI; (ii) modification of the Product except modifications performed by VMI or pursuant to VMI's instructions; (iii) combination of the Product with any other equipment, apparatus, software, processes, or materials not furnished by VMI; or (iv) compliance by VMI with Customer's designs, specifications, or instructions; where such infringement would not have occurred but for such use, modification, combination, or compliance. This Section states VMI's entire liability for any claim based upon or related to any alleged infringement of any patent or other intellectual property rights.

#### **16. Bodily Injury**

With respect to bodily injury liability to third parties, VMI shall be responsible in such proportion as reflects its relative fault, and Customer shall be responsible for all other liability for damages arising from or in any way related to the use or operation of any VMI Hardware or VMI Software by Customer, its employees, agents, or other non-VMI personnel. Notwithstanding the foregoing and regardless of any fault or neglect attributable to VMI, VMI shall have no responsibility whatsoever for, and Customer shall indemnify, defend, and hold VMI harmless from, any and all damage or injury which arises from or relates to (1) any use, operation, or service of any Product by anyone other than VMI personnel prior to completion of applicable acceptance tests by VMI and the radiation survey by Customer, or (2) any use, operation, or service of any Product contrary to any written warning or instruction given by VMI with respect to such Product, including but not limited to unauthorized use and/or modification of any equipment, components, software, or accessories by any user, or their use on or with any explosive or incendiary materials, or (3) claims or damages associated with any non-VMI design, manufacture, or installation of any product or any custom design, manufacture, or installation by VMI that is performed pursuant to Customer's specifications, designs, or plans. This Section states VMI's entire liability for bodily injury.

#### **17. LIMITATIONS OF LIABILITY**

IN NO EVENT SHALL VMI OR ITS SUPPLIERS OR LICENSORS BE LIABLE UNDER CONTRACT, TORT, OR ANY OTHER LEGAL THEORY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR SPECIAL LOSSES OR DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST BUSINESS, LOST PROFITS, LOSS OF USE, OR LOSS OF OR DAMAGE TO DATA, HOWEVER CAUSED, WHETHER FORESEEABLE OR NOT, EVEN IF VMI IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. VMI AND ITS SUPPLIERS AND LICENSORS' TOTAL LIABILITY IN DAMAGES OR OTHERWISE SHALL NOT EXCEED THE PAYMENT, IF ANY, RECEIVED BY VMI FOR THE UNIT OF PRODUCT OR SERVICE FURNISHED OR TO BE FURNISHED RESULTING IN THE LOSS OR DAMAGE CLAIMED. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. CUSTOMER ACKNOWLEDGES THAT THESE LIMITATIONS OF LIABILITY ARE MATERIAL PARTS OF THE BARGAIN BETWEEN THE PARTIES AND THAT PRICES FOR THE PRODUCTS WOULD BE HIGHER WITHOUT THEM. Liability to third parties for bodily injury, including death, resulting from VMI Hardware or VMI Software shall not be affected by the liability limitations stated above in this Section.

## **18. Export Compliance**

Customer acknowledges and agrees that the Products and related technology subject to this Agreement are subject to the export control laws and regulations of the United States, and Customer agrees to comply with such laws and regulations. The obligations of this Section as to these laws shall survive any termination of this Agreement.

## **19. Force Majeure**

Neither party shall be liable for any delay in performance which is due to causes beyond its control. Provided any such delay is neither material nor indefinite, performance shall be deemed suspended during the event causing such delay plus a reasonable period of time after such event, and the other party shall accept such delayed performance.

## **20. Disputes, Arbitration, and Applicable Law**

Any dispute, controversy or claim of any kind arising out of or relating to this Agreement, including the jurisdiction of the arbitration panel and claims in tort, shall be settled by final and binding arbitration. For sales to U.S. customers, arbitration shall be in the state of VMI's corporate domicile under the rules and procedures of the American Arbitration Association ("**AAA**"). For sales to non-U.S. customers, arbitration shall be in the place of VMI's corporate domicile under the UNCITRAL Arbitration Rules in effect on the date of this contract, and the appointing authority shall be the AAA. The governing law of the substance of this contract shall be the commercial law of the state or country of VMI's corporate domicile, and the United Nations Convention for the International Sale of Goods shall not apply. The procedural law shall be the law of the place where arbitration is conducted. Arbitral proceedings shall be conducted in English. The arbitration tribunal shall not award punitive damages. The expenses of the arbitration, including the arbitrator's fees, expert witness fees, and attorney's fees, may be apportioned between the parties in any manner deemed appropriate by the arbitrator; however, in the absence of any formal ruling by the arbitrator each party shall share equally in the payment of the arbitrator's fees and bear its own costs, expert witness fees, and attorney's fees. The arbitration award shall be final and binding, shall be the sole and exclusive remedy regarding any and all claims and counterclaims presented, and may not be reviewed by or appealed to any court except for enforcement. Nothing in this contract shall prohibit VMI from seeking to prevent any unauthorized copying, disclosure, use, retention or distribution of its intellectual or other property by injunctive relief or otherwise in a court of law. VMI shall have the exclusive right to bring legal action for failure to pay for Products or Services furnished in the courts of VMI's corporate domicile or any other place.

## **21. Limitation of Claims**

No claims, regardless of form, arising out of, or in any way connected with this Agreement or the Products or Services may be brought by Customer more than one year after the cause of action has accrued or performance under this Agreement has been completed or terminated, whichever is earlier.

## **22. Notices**

Any notices required or permitted to be given pursuant to this Agreement shall be in writing, delivered (1) in person, (2) by international courier, (3) by first class certified mail, return receipt requested, or its international equivalent, or (4) by facsimile with confirmation of delivery and an extra copy mailed. All such notices shall be addressed to VMI at Legal Department, Varex Imaging Corporation., 13805 West Road Ste 400, Houston TX 77041, and to Customer at the address and/or fax numbers set forth in the Quotation or to such other address as may be specified from time to time by notice in writing to the other party. Notice shall be deemed to have been given when received.

## **23. Headings**

Headings used in this Agreement are for ease of reference only and will not be used to interpret any part of this Agreement.

## **24. Entire Agreement**

This Agreement contains the complete and exclusive statement of the terms of agreement of the parties with respect to this subject matter, and supersedes all prior and contemporaneous understandings, representations, and warranties, written and oral. This Agreement may be amended or modified only in a writing signed by both parties. If a court or arbitrator holds any part of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity or enforceability of the remaining

provisions, or portions of them, will not be affected, and such provisions will be changed and interpreted so as to best accomplish the objectives of such enforceable or invalid provision within the limits of applicable law or court decisions.

**25. Waiver**

No term or provision of this Agreement shall be deemed waived by either party, and no breach excused by either party, unless the waiver or consent shall be in writing signed by an authorized representative of the party granting such waiver or consent.

**26. Assignment**

Customer may not assign its rights nor delegate its duties under this Agreement without the written consent of VMI, and any attempted assignment without such consent will be void. VMI may assign or otherwise transfer its rights or delegate its duties under this Agreement, in whole or in part, to a subsidiary or affiliate, or a purchaser or transferee of substantially all of the assets used by VMI in its business to which this Agreement relates without notice to, or obtaining the consent of, any other party.

**27. Counterparts**

This Agreement may be executed in two counterparts, each of which will be an original and together which will constitute one and the same instrument.

## **VMI Standard Product Warranty**

VMI warrants its products ("VMI Products") as follows:

### **Limited Warranty**

VMI warrants the VMI Products it manufactures to be free from defects in material and workmanship that impair their performance and to be in substantial compliance with operational features of VMI's published specifications at the time of sale. VMI's warranty shall continue for the period of time specified below or as specified on VMI's quotation or agreed to in writing by VMI

### **Warranty Periods**

Standard warranty periods for VMI Products are listed on the VMI quotation. If no period of time is so stated or agreed, VMI's warranty is limited to twelve (12) months. Different standard or agreed warranty periods may apply.

### **Remedies**

If VMI examination confirms that a VMI Product has failed during the Warranty Period through no fault of Buyer, VMI will, at VMI's option and at no cost to Buyer, either repair or replace the VMI Product upon return of the failed VMI Product to VMI. The warranty period remaining on VMI Product, at the time the VMI Product is taken out of service, shall apply to the repaired VMI Product t, or the replacement VMI Product, that is returned to the Buyer by VMI.

### **Warranty Conditions**

All remedies are expressly conditioned on all the following:

Repairs and adjustments of VMI Product must be made (or directed in writing) by authorized VMI personnel only. Unauthorized repairs or adjustments will void this warranty.

The VMI Product must have been used under normal operating conditions within the respective VMI-specified ratings and according to VMI operating instructions. High energy applications must use Varex's optional high energy configuration where the electronics are moved to the sides of the input area. However, in all applications, the OEM or system integrator is solely responsible for properly collimating the radiation source and for protecting the receptor input area and electronics from excessive dose. Misuse, abuse or improper installation will void this warranty. VMI shall make the sole final determination about whether failure occurred in normal operation (under warranty) or whether the VMI Product was subjected to other than normal operation (excluded from warranty).

Buyer must give VMI written notice of VMI Product failure before the end of the flat panel detector or system component Warranty Period, and return it prepaid to VMI with a completed Return Material Authorization (RMA) describing the reason for return, operating conditions, dates of installation and removal, and other pertinent information. VMI may solely determine remaining Warranty Period of the VMI Product when no accurate records can be found. All repairs not within warranty will be invoiced at prevailing rates, but VMI will not begin work without Buyer's approval of charges.

Unless otherwise agreed by VMI, Buyer shall pay costs of shipping for VMI Product returned to VMI for repair or adjustment, shall be responsible for loss or damage in transit, and shall file claims for loss or damage in transit.

### **Exclusions from Coverage**

VMI's warranties shall not apply to the extent that malfunction is caused in VMI's reasonable opinion by (1) accident (including loss damage or defects resulting from transportation to the Buyer facility), abuse, alteration, misuse or neglect, (2) failure to use VMI Products under normal operating conditions or environment, or within VMI specified ratings, or according to any operating instructions provided by VMI, (3) lack of routine care or maintenance as indicated in any VMI operating or maintenance instructions, (4) failure to use or take any proper precautions under the circumstances, (5) x-ray degradation in non-medical applications, (6) user modification of VMI Product or included software, or (7) latent defects discovered after expiration of the applicable warranty period. This warranty does not cover Buyer-supplied software, equipment warranted by another manufacturer, or replacement of expendable, consumable or limited life items.

**Exclusion of Implied Warranties**

THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF AND EXCLUDES ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, USE, OR APPLICATION.

**Limitations on Damages and Liability**

VMI'S TOTAL LIABILITY IN DAMAGES OR OTHERWISE SHALL NOT EXCEED THE PAYMENT, IF ANY, RECEIVED BY VMI FOR THE UNIT OF PRODUCT, SERVICE OR SOFTWARE FURNISHED OR TO BE FURNISHED RESULTING IN THE LOSS OR DAMAGE CLAIMED. IN NO EVENT SHALL VMI BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL LOSS OR DAMAGES OF ANY KIND, SUCH AS, BUT NOT LIMITED TO, LOST BUSINESS REVENUE, LOST PROFITS OR COSTS OF DOWNTIME RESULTING FROM VMI'S PRODUCTS, SERVICES OR SOFTWARE, HOWEVER CAUSED, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY.

Liability to third parties for bodily injury, including death, resulting from VMI's performance or VMI Products shall be determined according to applicable law. No claims, regardless of form, arising out of, or in any way connected with Products, Software or Services furnished by VMI, may be brought by Buyer more than one (1) year after the cause of action has accrued or VMI's performance has been completed or terminated, whichever is earlier.