

1. This Sales Contract, consisting of all signed or initialed documents by Customer (hereinafter "You") shall become binding only when accepted in writing by an officer of VITABYTE INC. (hereinafter "VITABYTE"). Your assent to these terms and conditions is conclusively presumed from Your signature hereon and/or from Your Signature on the Summary Page
2. The upfront payment amount listed on this Contract is a non-refundable payment as reasonable reimbursement for consultation services, site evaluation, system presentation, order processing, installation of equipment and custom programming and You expressly consent thereto.
3. Title, ownership and right to possession of the equipment listed on this Contract shall remain with VITABYTE until all sums due under this Contract are paid. This document is a Security Agreement allowing us to file a UCC-1 financing statement if any moneys are still owed after installation. If payment is not made when due, or on other breach by You, VITABYTE has the right to enter or to dial into any premises where the equipment is located and take possession of or disable the equipment without demand and without the necessity of resorting to legal process. Your signature hereunder expressly grants permission to VITABYTE personnel or agents for such entry or disablement and You agree not to interfere with and to cooperate in such removal and to pay for all reasonable expenses, including legal fees.
4. Upon breach of payment or of other terms, You also agree to pay, a reasonable equipment rental fee for the equipment during its use and all expenses which have been incurred by VITABYTE including, but not limited to, attorneys' fees, court costs, training and installation expenses and removal expenses You shall also pay to VITABYTE interest at a rate of 1.5% per month on any unpaid balances that are 30 days overdue.
5. VITABYTE is not liable for any delay in delivery or failure to deliver caused by unavailability of materials, strike or other labor related difficulties, interruption of production for mechanical or technical reasons, government or court order, your failure to pay in accordance with this agreement, or force majeure.
6. All claims for shortage or for damage occurring prior to delivery shall be deemed waived unless made in writing and delivered to VITABYTE within ten days of delivery of the equipment to You. All risk of loss or damage to equipment after delivery from any cause whatsoever shall be borne by You.
7. The installations prices listed on the attached addendum are only an estimate for initial programming and training of personnel in the use and operation of the equipment You will be invoiced for the actual installation hours VITABYTE and You agree that VITABYTE' sole obligation for training is to supply a qualified instructor for the designated number of training hours. VITABYTE neither warrants nor represents that after such training time any particular individual designated by You shall be able to competently use and operate the equipment. For any additional training, VITABYTE will bill You at its then prevailing rates, which do not include standard travel and room and board. All such expenses shall be promptly paid by You upon presentation of receipts and invoices.
8. The prices listed on this Contract include installation of the equipment, except that it is expressly understood that installation of sufficient and requisite AC power lines and data communications cabling is Your sole responsibility. You represent to VITABYTE that such lines are sufficient and requisite for the particular installation. You acknowledge receipt of documentation concerning the requirements for dedicated, isolated and insulated AC power lines and for data communications cabling for all VITABYTE equipment. VITABYTE shall not be responsible for the inspection of such electrical installation and/or cabling. You acknowledge and agree that any VITABYTE warranty or liability under this Contract is conditional upon Your providing those conditions contained in VITABYTE' written specifications. The prices and quantities listed include only those items specified in the equipment list and any other attached documents.
9. VITABYTE warrants that upon installation, the equipment shall be in good working order. For a period of 365 days after installation, should any part of the equipment prove to be defective in material or workmanship, VITABYTE will repair or replace such part with new or refurbished parts, at no charge to You including parts and labor. This warranty is available Monday through Friday from 9:00 AM to 5:00 PM, excluding holidays. Labor charges for warranty service performed outside of this time period will be billed, including travel at prevailing rates. A Service Maintenance Agreement (SMA) may be purchased annually to continue such support at various levels of coverage. If Credit Card authorization is purchased, Credit Card telephone support (7 days, 24 hours) for the first year is included in the purchase price through a third-party provider.
10. **THIS IS THE ONLY WARRANTY MADE AS TO THIS INSTALLATION AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. VITABYTE' SOLE OBLIGATION UNDER THIS WARRANTY IS LIMITED TO THE REPAIR OR REPLACEMENT OF THE EQUIPMENT OR ITS PARTS. IN NO EVENT SHALL VITABYTE OR ITS EMPLOYEES BE LIABLE FOR ANY LOSS OF PROFITS, OPPORTUNITY, LOSS OF USE OR OTHER DIRECT, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING THOSE ASSOCIATED WITH IMPROPER, UNDERCALCULATED OR UNDER-ACCRUED TAXES OR GOVERNMENT LEVIES. VITABYTE IS NOT RESPONSIBLE FOR AND DISCLAIMS ANY LIABILITY ASSOCIATED WITH FAILURE TO PROCESS CREDIT CARD TRANSACTIONS AND FOR ANY AND ALL PCI/DSS/PABP COMPLIANCY VIOLATIONS, FINES, JUDGMENTS OR PENALTIES ASSESSED AGAINST YOU. CUSTOMER ACKNOWLEDGES THAT THE SOFTWARE PURCHASED HEREIN IS SUBJECT TO THE TERMS CONDITIONS AND LIMITATIONS CONTAINED IN THE SOFTWARE MANUFACTURERS' LICENSING AGREEMENTS, WHICH ARE NOT TRANSFERABLE NOR ASSIGNABLE. WARRANTY IS VOID IF YOU ARE ON "NO SERVICE" STATUS FOR NON-PAYMENT.**
11. Warranty coverage will not be extended for repairs made necessary by damage due to fire, water, wind, rain, storm, lightning, blackout, burglary, power line fluctuations, spillage, accident, negligence, abuse, acts of God, acts of terror or the installation or downloading by You, Your licensees, employees, agents, or 3rd parties of software of any kind. The warranty specifically excludes damage to the printer heads or motors caused by paper jams or insertion of foreign objects between the printer head and the print surface. Any repairs resulting from such causes will be performed at additional charge to You only after Your prior written approval of estimated costs to repair. VITABYTE assumes no responsibility for the repair or maintenance of any type of communication lines or related equipment, which may be required for VITABYTE to provide remote support. VITABYTE reserves the right to bill You for on-site service calls made necessary as a result of communication line or equipment malfunctions which prevent VITABYTE from using remote support software.
12. This Contract constitutes the entire Contract between You and VITABYTE and may not be amended except in writing signed both by You and by VITABYTE. You expressly represent to VITABYTE that no officer, employee, representative or agent of VITABYTE has made or entered into any oral agreement, promise, representation or understanding that conflicts with any of the terms set forth in writing in any counterpart of this Contract.
13. This Contract shall be governed by and construed according to the UCC and the laws of New York and all actions shall be brought within Queens County, N.Y.
14. This Contract shall be binding upon and inure to Your benefit and to the benefit of VITABYTE and / or to the benefit of all successors and assigns. It is understood that understood that VITABYTE may subcontract certain of its obligations under this Contract. This Contract is not otherwise assignable without the written prior consent of consent of the other party.
15. The invalidity or unenforceability of any provision of this Contract shall not render any other portion of the Contract invalid or unenforceable.
16. VITABYTE has the right to terminate this Contract, or to delay shipment pursuant thereto, by reason of the filing of Bankruptcy or insolvency proceedings against You, You, breach by You of any of the terms of this Contract and Your failure to make payments in accordance with the payment schedule, if any, set forth elsewhere in right to terminate this contract in the event of Your assignment of this Contract without advance written approval by VITABYTE.
17. You agree not to solicit nor hire any current, past or former employee of Vitabyte or to hire such person for a period of at least three (3) years from the date hereof or date of such employee or person leaves the employer, whichever is later. Should YOU do so, You agree to pay to VITABYTE INC. a sum equal to one (1) year's salary of that employee as liquidated damages for breach of this covenant.