



TERMS AND CONDITIONS FOR LUCENT WATER, LLC

Applicability

This document sets forth the *Terms and Conditions* for the sale of goods and products manufactured or supplied, and services provided, by Lucent Water, LLC of Laramie, Wyoming, (hereinafter “Lucent”) and sold to the original purchaser thereof (hereinafter “Buyer”). These *Terms and Conditions* mean collectively, the terms and conditions contained herein. Unless otherwise specifically stated in a previously-executed written purchase agreement signed by duly authorized representatives of Lucent and Buyer, these *Terms and Conditions* establish the rights, obligations, and remedies of Lucent and Buyer that apply to this offer and any resulting order or contract between Lucent and Buyer. These *Terms and Conditions* apply to Lucent’s purchase order form, offer letters and related documents, order acknowledgments, invoices, and other billing documents.

Of the following actions, the first to occur will constitute acceptance of Lucent’s offer and creates a contract of sale (Contract) in accordance with these *Terms and Conditions*: 1) Buyer’s issuance of a purchase order document against Lucent’s offer, 2) Lucent’s acknowledgment of Buyer’s order, or 3) Commencement of any performance by Lucent in reliance on and pursuant to Buyer’s order. The first of these acts do not constitute a counteroffer. Any provision(s) in Buyer’s purchase documents that materially alter, add to, or subtract from provisions contained in these *Terms and Conditions* are not, and do not become, part of the Contract between Lucent and Buyer.

Cancellation

Buyer may cancel goods orders, but such a cancellation or return will be subject to fair charges for Lucent’s expenses incurred in the preparation of the order and as a result of the cancellation. Examples of such expenses include handling, inspection, packaging, restocking, freight and shipping, and billing and invoicing charges as applicable, provided that Buyer returns cancelled goods at its own expense within thirty (30) days of delivery and in the same condition as received. Buyer may cancel service orders by providing at least ninety (90) day’s prior written notice and refunds will be prorated based on the duration of the service plan. Inspections and reinstatement fees may apply upon cancellation or expiration of service programs.

Orders will be fulfilled and shipped from Laramie, Wyoming, United States. Unless Lucent and Buyer agree otherwise and expressly state as such in the Contract, legal title, including risk of loss or damage, for all orders shall pass to Buyer the moment the goods are delivered to the first carrier. Lucent agrees to use commercially reasonable efforts to deliver orders within the time expressly stated in the Contract. If the Contract does not specify a time for delivery, then shipping shall be within Lucent’s normal lead-time necessary for Lucent to deliver the goods ordered therein. Buyer and Lucent may expressly agree in the Contract that Lucent will deliver an order on an expedited basis for an additional charge to the Buyer. Standard service delivery hours are between 8:00 am through 5:00 pm Monday through Friday, excluding holidays.



Inspection

Upon receipt, Buyer will promptly inspect and accept products delivered pursuant to the Contract. In the event the Buyer discovers any defects or failure of the products to conform to applicable specifications, Buyer shall promptly notify Lucent of the deficiency in writing. Lucent will then have a reasonable opportunity to either repair or replace the defective or nonconforming product at its option. In the event that Buyer does not provide such written notification to Lucent within thirty (30) days of delivery, Buyer will be deemed to have accepted the products as delivered hereunder and to have waived any claim of defective or nonconforming products.

Price

All prices are in United States dollars and based on delivery as stated above. Prices do not include any charges for additional services that may be requested by the Buyer or necessary to comply with Buyer's order. These additional services may include insurance; brokerage fees; sales, use, inventory, excise, or value added taxes; import or export duties; special financing fees; income or royalty taxes imposed outside the United States; attorneys' and other legal fees; special permits or licenses; or similar charges imposed upon the production, sale, distribution, or delivery of the products ordered. Buyer will either pay any and all such taxes and charges or provide Lucent with acceptable exemption certificates. This obligation survives performance under the Contract. Lucent reserves its right to establish minimum order criteria and will advise Buyer accordingly.

Payment

Invoices for a Buyer with established credit with Lucent are due and payable net thirty (30) days from date of the invoice, without regard to delays for inspection or transportation. Payments must be made in United States dollars and either by: 1) Check to Lucent at the above address; or 2) Wire transfer to the account stated on the front of Lucent's invoice. Payment from a Buyer with no established credit with Lucent, or from a Buyer with established credit that has failed to complete or make payments in a timely manner, may be required to pay by cash or credit card before delivery. Lucent may, in addition to all other remedies provided at law: 1) Declare Buyer in material breach and terminate the Contract for default; 2) Withhold future shipments until delinquent payments are brought current; 3) Deliver future shipments on a cash-with-order or cash-in-advance basis, even after a delinquency is cured; 4) Charge interest on the delinquency at the maximum rate permitted by law, plus applicable storage charges and/or inventory carrying charges; 5) Repossess products for which payment has not been made; 6) Recover all costs of collection including reasonable attorneys' fees; or 7) Combine any of the above rights and remedies as is practicable and permitted by law. Buyer may not set off any amounts owed under the Contract with any other sums, whether liquidated or not, that are or may be due Buyer, which arise out of a different transaction, order or purchase agreement with Lucent. Should Buyer's financial responsibility become unsatisfactory to Lucent in its reasonable discretion, Lucent may require cash payment or other security. If Buyer fails to meet these requirements, Lucent may treat such failure as reasonable grounds for repudiation of the Contract, in which case reasonable cancellation charges shall be due Lucent. Buyer grants Lucent a security interest in the delivered products to secure payment in full, which payment releases the security interest but only if such



payments could not be considered an avoidable transfer under the United States Bankruptcy Code or other applicable laws. Buyer's insolvency, bankruptcy, assignment for the benefit of creditors, or dissolution or termination of the existence of Buyer, constitutes a default under the Contract and affords Lucent all the remedies of a secured party under the Uniform Commercial Code, as well as the remedies stated above for late payment or non-payment.

Limitations on Use

The Buyer shall not use any products, software, or services provided under the Contract and applicable to these *Terms and Conditions* for any purpose other than intended uses identified in Lucent's catalogs and literature. Any warranty granted by Lucent to the Buyer shall be deemed void if any products, software, or services covered by such warranty are used for any purpose not permitted by the Contract or these *Terms and Conditions*. In addition, the Buyer shall indemnify Lucent and hold Lucent harmless from and against any and all claims, damages, losses, expenses, and other liability of any kind that Lucent suffers or incurs as a result of, or by reason of, any such unintended use by the Buyer.

Limited Warranty

Lucent warrants that products and related software sold under the Contract will be free from defects in material and workmanship and will conform to any express written warranty pertaining to the specific goods purchased. For most Lucent products, this is a period of twelve (12) months from delivery. Lucent warrants that services furnished under the Contract will be free from defects in workmanship for a period of ninety (90) days from the completion of the services. Parts provided by Lucent in the performance of services may be new or refurbished parts functioning equivalent to new parts. Any non-functioning parts that are repaired by Lucent shall become the property of Lucent. No warranties extend to consumables, such as, and without limitation, reagents, batteries, mercury cells, and light bulbs. All other guarantees, warranties, conditions, and representations, either express or implied, whether arising under any statute, regulation, commercial usage or otherwise, including implied warranties of merchantability and fitness for a particular purpose, are hereby expressly excluded. The sole remedy for Lucent products not meeting this Limited Warranty is replacement, credit, or refund of the purchase price. This provision will not be deemed to have failed of its essential purpose so long as Lucent is willing to provide such replacement, credit, or refund.

Indemnification

Lucent is responsible for and will defend, indemnify, and hold harmless the Buyer, and the Buyer's successors-in-interest, assignees, affiliates, directors, officers, and employees against all losses, claims, expenses, or damages which may result from accident, injury, damage, or death due to Lucent's breach of the Limited Warranty. This indemnification is provided solely on the condition that the Buyer is responsible for and will defend, indemnify, and hold harmless the Lucent and Lucent's successors-in-interest, assignees, affiliates, directors, officers, and employees against all losses, claims, expenses, or damages which may result from accident, injury, damage,



or death due to the negligence or misuse or misapplication of any goods or services by the Buyer or any third party affiliated or in privity with Buyer.

Patent Protection and Trademark

Subject to all limitations of liability provided herein, Lucent will, with respect to any of its product designs or manufacture, indemnify Buyer from any and all damages and costs as finally determined by a court of competent jurisdiction in any suit for infringement of any United States patent that has issued as of the delivery date, solely by reason of the sale or normal use of any products sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit if Lucent does not undertake the defense thereof, provided that Buyer promptly notifies Lucent of such suit and offers Lucent either: 1) Full and exclusive control of the defense of such suit when products of Lucent only are involved, or 2) The right to participate in the defense of such suit when products other than those of Lucent are also involved. Lucent's warranty as to use patents only applies to infringement arising solely out of the inherent operation of its products according to applications as envisioned by Lucent's specifications. In the event the products of the suit are held to constitute infringement and the products' use is enjoined, Lucent will, at its own expense and at its option: 1) For the Buyer procure the right to continue using those products or replace them with non-infringing products; 2) Modify those products so they become non-infringing; or 3) Repossess the products and refund the Buyer's purchase price, prorated for depreciation, and any transportation costs thereof. The foregoing states the entire liability of Lucent for patent infringement by its products. Further, and to the same extent as set forth in Lucent's above obligation to Buyer, Buyer agrees to defend, indemnify, and hold harmless Lucent for patent infringement related to: 1) Any goods manufactured to the Buyer's design; 2) Services provided in accordance with the Buyer's instructions; or 3) Lucent's products when used in combination with any other devices, parts or software not provided by Lucent hereunder. Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within Lucent products, including, and without limitation, the serial numbers or trademarks on nameplates or cast, molded, or machined components.

Software

All licenses to Lucent's separately-provided software products are subject to the independent software license agreement(s). In the absence of such terms and for all other software, Lucent grants Buyer only a personal and non-exclusive license to use and access the software as provided by Lucent with Lucent products purchased under the Contract solely as necessary for Buyer to enjoy the benefit of those products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of that specific license under which the open source software is distributed. Buyer agrees that it will be bound by any and all such license agreements. Title to software remains with the applicable licensor(s). Solely for the purpose of verifying Buyer's compliance with these *Terms and Conditions*, Lucent or its agent has the right to perform an audit of Buyer's use of the software during normal business hours. Buyer agrees to cooperate with Lucent in such an audit and to provide it with all reasonably related records.



On occasion, Lucent may need to repair, maintain, or upgrade the software or products used in connection with the software installed on its and Buyer's system, which may temporarily affect the quality of services or even result in a temporary outage of the software. Lucent provides no assurance or guarantee that Buyer will receive notification in advance of such activities or that all services will be uninterrupted or error-free. Unless otherwise expressly agreed to, in writing, by Lucent and Buyer, any interruption or temporary change in quality of service will not give rise to any form of damages or to a refund or credit of any fees paid by Buyer. Buyer acknowledges that systems used for interacting with Lucent's software, particularly and not limited to the Internet and third-party service providers' communications networks, are unpredictable and the operation and availability of such systems may sometimes interfere with, or prevent access to, the use or operation of Lucent software and related data. Lucent shall not be liable for any such interference with or prevention of Buyer's access or use of Lucent software or related data.

Customer Data

In connection with Buyer's use of Lucent products, it may be necessary for Lucent to obtain, receive, or collect Buyer's information. Buyer grants Lucent a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of such data solely to facilitate the performance of services by Lucent or Buyer's use of Lucent products, including software. In addition, Buyer grants Lucent a license to aggregate such data for use in an anonymous manner in support of Lucent's sales and marketing activities. Buyer also grants Lucent the right to copy and maintain such data on Lucent's servers, or those of its suppliers. Buyer represents and warrants that it has obtained all rights, permissions, and consents necessary to use and transfer such data within and outside of the country in which Buyer is located in conjunction with Lucent's performance of the services or Buyer's use of Lucent products, including providing adequate disclosures and obtaining legally sufficient consent from Buyer's employees, agents, and contractors.

Nondisclosure and Non-Use of Proprietary Information

"Proprietary Information," as used within these *Terms and Conditions*, is defined as: 1) Any information, technical data, or know-how in whatever form, including, but not limited to, documented information, machine readable, or interpreted information; and 2) Any information contained in physical components, design, and artwork, which Lucent considers proprietary, including, but not limited to, service and maintenance manuals. Buyer and its customers, employees, and agents will keep all such Proprietary Information obtained directly or indirectly confidential and will not transfer or disclose it without Lucent's prior written consent. Further, Buyer will not use such Proprietary Information for the manufacture, procurement, servicing, or calibration of other products, or cause such products to be manufactured, serviced, or calibrated by or procured from any other source. Buyer shall not reproduce or otherwise appropriate Proprietary Information without Lucent's prior written consent. All such Proprietary Information remains property of Lucent and no right or license is granted by these *Terms and Conditions* to Buyer or its customers, employees, or agents, neither expressly nor by implication, with respect to the Proprietary Information or any patent, patent application, or other proprietary right of Lucent, except for the limited use licenses implied by law.



All right, title, and interest in Lucent’s intellectual property (including all copyrights, patents, trademarks, trade secrets, and trade dress) embodied in any services, software, and all content included with or as part of the services or software (such as text, graphics, graphs, representations of data, user interfaces, images, data, photographs, videos, and software provided under the Contract) shall belong solely and exclusively to Lucent and Buyer has no rights whatsoever in any of the above, except as expressly granted in the Contract and these *Terms and Conditions*. All content as just described are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Buyer may not modify, remove, delete, augment, add to, publish, transmit, adapt, translate, participate in the transfer or sale of, create derivative works from, or in any way exploit any of the software or other content, either in whole or in part. Lucent retains exclusive ownership of all software and content, and will own all intellectual property rights, title, and interest in any ideas, concepts, know-how, documentation, and techniques associated therewith. Subject to payment in full for the applicable services, Lucent grants Buyer a non-exclusive, non-transferable, and royalty-free right to use the software and other content solely for Buyer’s facilities, and solely as necessary for Buyer to enjoy the benefit of the services.

Confidentiality

In connection with these *Terms and Conditions* and the Contract, Buyer and Lucent may have access to or be exposed to information of each other that is not generally known to the public, such as information pertaining to software, data, reporting, pricing, marketing, and trade secrets, which may be designated as confidential or under the circumstances surrounding disclosure, ought to be treated as confidential (hereinafter referred to as “Confidential Information”). Such Confidential Information may not be shared with third parties unless otherwise permitted under these *Terms and Conditions*. Buyer and Lucent agree to take precautions necessary to maintain the confidentiality of the other’s Confidential Information by using at least the same degree of care as such party employs with respect to its own Confidential Information of a similar nature, but in no case less than a commercially reasonable standard of care to maintain confidentiality. This requirement shall not apply to information that the receiving party can show through written records 1) Was known by it before its receipt from the disclosing party; 2) Is or becomes public knowledge through no fault of the receiving party; or 3) Is rightfully received by the receiving party from a third party without a duty of confidentiality. If the receiving party is required by a court or government agency to disclose Confidential Information, then that party shall, and subject to any applicable lawful restrictions, provide advance notice to the disclosing party before disclosure. Obligations with respect to Confidential Information shall continue for five (5) years from the date of disclosure.

External Provider Flow Down Requirements – ISO 9001:2015

“External providers” shall include: *suppliers, vendors, service providers, subcontractors, original equipment manufacturers, original component manufacturers, authorized distributors, etc.* External providers are required to flow down to the supply chain any applicable



requirements, including customer requirements, to ensure Lucent customer requirements are communicated to all responsible suppliers.

External providers are responsible to take corrective actions when Lucent flows down corrective action requirements, in cases when it is determined that suppliers are responsible for root cause. Actions may be documented using the supplier's forms. External providers are required to respond to Corrective Action requests in a timely manner. Corrective actions must demonstrate root cause analysis, action implementation, and verification of action effectiveness. Should actions prove ineffective, alternate actions may be requested, or suppliers may be disqualified from use.

Suppliers of calibration services or calibrated devices are required to provide certificates of calibration bearing traceability to the National Institute of Standards and Technology (NIST), and reporting "as found" information and "adjustment" information, as applicable.

The above terms and requirements pertain to each Lucent Purchase Order or purchasing contract; acknowledgement and acceptance of the above terms and requirements will be evidenced by external providers' acceptance of Lucent Purchase Orders or purchasing contracts. The following requirements additionally apply to suppliers of special processes.

Pertaining to external providers of special processes

Lucent requires suppliers of special processes to provide evidence of process validation according to the requirements of ISO 9001 section 8.5.1f.

If the supplier has the ability to measure product conformity to requirements, evidence of validation may include evidence of appropriate measurement capability. This may include verbal or written exchanges with the supplier, published public information about supplier process and measurement capability, results of a site audit, supplier-provided information about measuring equipment, etc.

If the supplier does not have the ability to measure product conformity to requirements, evidence of validation may include a third-party registration to ISO 9001 or similar standard within the scope of supplied services that requires validation of special processes.

At the discretion of purchasing personnel, suppliers may be requested to provide certificates of conformance, inspection results, etc. along with the product or service.

Changes and Additional Charges

Lucent reserves the right to make changes in design or additions or improvements to any products of the same general class as products being delivered hereunder without liability or obligation to incorporate such changes, additions, or improvements to products ordered by Buyer, unless specifically agreed upon in writing reasonably in advance of such products' delivery date. Services which must be performed as a result of any of the following conditions are subject to



additional charges for labor, travel and parts: 1) Equipment alterations not authorized in writing by Lucent; 2) Damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Lucent's operating manuals; 3) The use of parts or accessories not provided by Lucent; 4) Damage resulting from acts of war, terrorism, or nature; or 5) Services outside standard business hours.

Site Access, Preparation, Worker Safety, and Environmental Compliance

In connection with services provided by Lucent, Buyer agrees to permit prompt access to equipment. Buyer assumes full responsibility to back-up or otherwise protect its data against loss, damage, or destruction before services are performed. Buyer is the operator and in full control of its premises, including those parts of the premises where Lucent employees or contractors are performing service, repair, and maintenance activities. Buyer will ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services. Buyer is the generator of any wastes, including without limitation, hazardous wastes, resulting from such services, repair, and maintenance. Buyer is solely responsible to arrange for the disposal of any wastes at its own expense. Buyer will, at its own expense, provide Lucent employees and contractors working on Buyer's premises with all information and training required under applicable safety compliance regulations and Buyer's policies. If the instrument to be serviced is in a "confined space," as defined under OSHA regulations, Buyer is then solely responsible to make it available to be serviced in an unconfined space. Lucent service technicians will not work in confined spaces. In the event that Buyer requires Lucent employees or contractors to attend safety or compliance training programs provided by Buyer, Buyer will pay Lucent the standard hourly rate and expense reimbursement for such training attended. The attendance at or completion of such training does not create or expand any warranty or obligation of Lucent and does not serve to alter, amend, limit, or supersede any part of the *Terms and Conditions*.

Limitations on Use

Buyer will not use any Products for any purpose other than those expressly identified by Lucent's written documentation as intended uses. Unless Lucent has advised the Buyer in writing, in no event will Buyer use any Lucent products in drugs, food or food additives, cosmetics, or for medical applications for humans or animals. In no event shall Buyer use in any application any product that requires FDA 510(k) clearance unless and only to the extent the product has such clearance. Any warranty granted by Lucent is void if any goods covered by such warranty are used for any purpose not permitted hereunder.

Export and Import Licenses and Compliance with Laws

Unless otherwise specified in these *Terms and Conditions*, or expressly included in the Contract between Buyer and Lucent, Buyer is responsible for obtaining any required export or import licenses. Lucent represents that all products delivered hereunder will be produced and supplied in compliance with all applicable laws and regulations. Buyer will comply with all laws



and regulations applicable to the installation or use of all products, including applicable import and export control laws and regulations of the United States and any other country having proper jurisdiction. Buyer will also obtain all necessary export licenses in connection with any subsequent export, re-export, transfer, and use of all products and technology that these *Terms and Conditions* control. Buyer will not sell, transfer, export, or re-export any Lucent products or technology for use in activities which involve the design, development, production, use, or stockpiling of nuclear, chemical, or biological weapons or missiles, nor use Lucent products or technology in any facility which engages in activities relating to such weapons. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with these *Terms and Conditions*, including, but not limited to, the United States Foreign Corrupt Practices Act of 1977, as amended. Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid, or transferred, either directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Lucent, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to these *Terms and Conditions*.

Force Majeure

Lucent is excused from delays in delivery and performance of other contractual obligations under these *Terms and Conditions* caused by acts or omissions that are beyond the Lucent's control, including, but not limited to, governmental embargoes, blockages, seizures, or freeze of assets, delays or refusals to grant an export or import license or the suspension or revocation thereof, or any other acts of any government; fires, floods, severe weather conditions, or any other acts of God; quarantines; labor strikes or lockouts; riots, strife, insurrections, civil disobedience, or acts of criminals or terrorists; war; or material shortages or delays in deliveries to Lucent by third parties. In the event of any force majeure circumstance, the period of time for delivery, payment terms, and payments under any letters of credit will be extended for a period of time equal to the period of delay. If the force majeure circumstances extend for six months, Lucent may, at its option, terminate a pending contract or agreement for delivery without penalty and without being deemed in default or in breach thereof.

Non-assignment and Waiver

Buyer will not transfer or assign the Contract or any associated rights or interests without Lucent's prior written consent. Either party's failure to insist upon strict performance of any provision of the Contract, the exercise any right or privilege contained in the Contract, or the waiver of any breach of these *Terms and Conditions* will not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same will continue and remain in force and effect as if no waiver had occurred. All rights or remedies specified in these *Terms and*



Conditions and provided for in the Contract, as well as all other rights or remedies that Lucent may have at law, in equity, or otherwise, shall be distinct, separate, and cumulative rights or remedies, and no one of them, whether exercised by Lucent seeking enforcement or not, shall be deemed to be in exclusion of any other right or remedy. Any consent, waiver, or approval by either party of any act or matter must be in writing and shall apply only to the particular act or matter to which such consent or approval is given.

Limitation of Liability

None of Lucent's successors-in-interest, assignees, affiliates, directors, officers, and employees will be liable to Buyer under any circumstances for any special, treble, incidental, or consequential damages, including and without limitation, damage to or loss of property other than for the what is purchased under the Contract; damages incurred in installation, repair, or replacement; lost profits, revenue, or opportunity; loss of use or losses resulting from or related to downtime of the products or inaccurate measurements or reporting; the cost of substitute products; or claims of Buyer's customers for such damages, howsoever caused, and whether based on warranty, contract, or tort (including negligence and strict liability). The total liability of Lucent and Lucent's successors-in-interest, assignees, affiliates, directors, officers, and employees arising out of the performance or nonperformance hereunder or Lucent's obligations in connection with the design, manufacture, sale, delivery, or use of Lucent products shall in no case exceed in the aggregate a sum equal to twice the amount actually paid to Lucent for products delivered under the Contract.

Applicable Law and Dispute Resolution

The captions are for convenience and in no way define, limit or enlarge the scope of these *Terms and Conditions* or any of its individual provisions. The construction, interpretation, and performance of the Contract and all transactions under these *Terms and Conditions* shall be governed by the laws of the State of Wyoming, without regard to its principles or laws regarding conflicts of laws. If any provision(s) of the Contract or these *Terms and Conditions* violate(s) any Federal, State, or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, that provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise expressly and specifically agreed upon in writing between Lucent and Buyer, any dispute relating to the Contract which is not resolved by the parties shall be adjudicated in order of preference by a court of competent jurisdiction: 1) In the State of Wyoming, if Buyer has minimum contacts with Wyoming; 2) Elsewhere in the United States if Buyer has minimum contacts with the United States, but not Wyoming; or 3) In a neutral location if Buyer does not have minimum contacts with the United States.

Entire Agreement & Modification

These *Terms and Conditions* constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these *Terms and Conditions* shall be binding upon Lucent, unless a written instrument specifically references these *Terms and Conditions* and is signed by an authorized



representative of Lucent. Lucent rejects any additional or inconsistent *Terms and Conditions* offered by Buyer at any time, whether or not such terms or conditions materially alter the *Terms and Conditions* herein and irrespective of Lucent's acceptance of Buyer's order for the described goods and services.

All proposals, negotiations, representations, and quotations, if any, regarding a transaction and made prior to the date of the Contract are merged in the Contract, and by both parties' signing becomes a fully integrated document.

Warranty Disclaimer

Except as expressly states in the preceding *Terms and Conditions*, Lucent(including its affiliates and each of their respective employees, directors, and officers) makes no express or implied warranty with respect to its products, software, or services, including but not limited to, any warranty: 1) Of merchantability, fitness for a particular purpose, performance, suitability, or non-infringement; or 2) Regarding the results to be obtained from the software, services, or the results of any recommendation by Lucent. Warranties do not cover damage due to external causes, such as accident, abuse, misuse, problems with electrical power, services not performed or authorized by Lucent(including installation or removal), usage not in accordance with Lucent instructions, normal wear and tear, or use of parts and components not supplied or intended for use with the products, software, or services. With respect to Buyer's use of the product, software, or related service: 1) Parties make no express or implied warranty that a product, software, or service provided to Buyer in connection with the Contract or these *Terms and Conditions* is or will be secure, accurate, complete, uninterrupted, without error, or free of viruses, worms, other harmful components, or other program limitations; or that any errors in the software will be corrected; and 2) Buyer assumes the entire cost of all necessary servicing, repair, or correction of such problems caused by viruses or other harmful components, unless such errors or viruses are the direct result of Lucent's gross negligence or willful misconduct.

High-Risk Disclaimer

Lucent products, software, and services are not fault-tolerant and are not designed or intended for use in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, hospitals, or other applications in which the failure of the products, software, or services could lead directly to death, personal injury, or severe physical or property damage. Lucent expressly disclaims any express or implied warranty of fitness for such high-risk activities.

Limitation on Damages

In no event shall Lucent, its suppliers, licensors, or its subcontractors be liable to Buyer or any third party for any indirect, incidental, special, punitive, or consequential damages, or damages for the loss of profits or revenue, loss of Buyer data, corrupt or otherwise unavailable data, lost opportunity, transaction losses, opportunity costs, interruption of business or costs of procuring substitute goods or services or for interrupted communications arising out of or in connection with



the Contract or these *Terms and Conditions*, whether in an action in contract, warranty, tort, or strict liability. The foregoing notwithstanding, in no event shall Lucent's liability for damages hereunder to Buyer exceed the amount Buyer actually paid pursuant to the Contract.

Survival

The foregoing disclaimers and limitations of liability shall be enforceable to the maximum extent permitted by law and shall survive termination or expiration of the Contract.

Independent Relationship

As between themselves, the parties are independent contractors with no authority to contract for or in any way to bind or to commit the other to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of the other.

Assignment

These *Terms and Conditions*, the Contract, and any license granted hereunder are all prohibited from assignment by either party without the prior written consent of the other, which may be withheld for any reason or no reasons, and any such assignment is void *ab initio*.

Notice

Any notice given pursuant to these *Terms and Conditions* or the Contract must be in writing and will be given by overnight courier service, personal delivery, facsimile or by United States certified mail, return receipt requested, postage prepaid, to the address appearing in Buyer's purchase order in the case of notice to Buyer, and to the following address in the case of notice to Lucent:

Lucent Water, LLC
1379 N. Cedar St. Suite #104
Laramie, WY 82072

Notice will be deemed effective on the date delivered to the addressee as confirmed by the applicable delivery service. Either party may change its address for notice purposes by giving the other party notice of such change in accordance with this provision.