

These Terms and Conditions of Sale (“Terms and Conditions”) shall apply to and govern the sale of all products which are marketed under the brands Prencia, ReliaSoft or nCode (“Prencia Products”) and of related services (incl. Seller Events) by Hottinger Bruel & Kjaer Inc. (“HBK”) to the Buyer.

When Buyer submits orders to Seller (including Purchase Orders, Credit Card Orders, prepayments via Check or Wire/ACH/Telegraphic Transfer, or similar) (each an “Order”) for Prencia Products or related services described in the applicable Order or in Seller’s quotation, proposal or statement of work (the “Quotation”) the order processing, fulfillment, and sale of the Prencia Products will be governed by these Terms and Conditions.

If the Prencia Products involve software, then these Terms and Conditions also include the end user license agreement distributed for the Prencia Products by the Seller’s UK affiliate, Hottinger Bruel & Kjaer UK Ltd., (the “EULA”). If there is a direct conflict between these Terms and Conditions and Conditions and the EULA, the EULA shall prevail. When using Seller’s websites, Buyer acknowledges that it does so under Seller’s terms of use and privacy policy, and Buyer agrees to comply with such terms of use and privacy policy. If the Order or Quotation involves registration for Seller Events, including but not limited to training seminars, conferences, or the Applied Reliability or Durability Conference (“Seller Events”) then additional terms shall apply to the sale; these additional terms can be found under Section 24 below.

1. Controlling Provisions: These Terms and Conditions shall take precedence over any terms and conditions which appear in Buyer’s Order or in any documents incorporated by reference in Buyer’s Order. Seller’s acceptance of Buyer’s Order is conditioned upon Buyer’s acceptance of these Terms and Conditions. No term or condition of Buyer’s Order additional to or different from these Terms and Conditions shall become part of the contract between Buyer and Seller unless expressly agreed to in writing by both parties. In addition to the aforementioned acceptance language, Buyer’s acceptance may also be demonstrated through any other conduct that evidences the existence of an agreement with respect to the Prencia Products that are the subject of Seller’s Quotation. Retention by Buyer of any products delivered by Seller, or payment by Buyer of any invoice rendered hereunder, shall be conclusively deemed acceptance of these Terms and Conditions. Seller’s failure to object to any provision contained in any communication from Buyer shall not be construed as waiver of these Terms and Conditions nor as an acceptance of any such provision.

2. Payment Terms: Buyer agrees to pay for the Prencia Products described in the applicable Order or Quotation according to the Seller’s payment terms set out in the applicable Quotation. In the event Buyer fails to make any payment to Seller when due, Buyer’s entire account(s) with Seller shall become immediately due and payable on notice. All past due amounts are subject to a 0.0067% per day interest charge or the maximum allowed per law, whichever is lower. Buyer hereby grants Seller a purchase money security interest in the Prencia Products purchased until such time as Buyer has fully paid for such Prencia Products. Buyer will use commercially reasonable efforts to assist Seller in taking the necessary action to perfect and protect Seller’s security interest.

3. Remedies of Seller: Upon default by Buyer, Buyer agrees to reimburse Seller for all reasonable attorney fees and court costs incurred by Seller in connection with the Buyer’s default. Buyer agrees that any of the following shall constitute a default which shall enable Seller, at its option, to cancel any unexecuted portion of a sale of Prencia Products or to exercise any right or remedy which it may have by law: (a) the failure of Buyer to perform any term or condition contained within these Terms and Conditions; (b) any failure of Buyer to give notice required herein; (c) the insolvency of Buyer or its failure to pay debts as they mature, an assignment by Buyer for benefit of its creditors, the appointment of a receiver for Buyer or for the Prencia Products covered by an Order or Quotation, or the filing of any petition to adjudicate Buyer as bankrupt; (d) the death, incompetency, dissolution, or the termination of the existence of Buyer; or (e) a determination by the Seller, acting reasonably and in good faith, that Buyer’s prospect of performance under these Terms and Conditions is materially impaired. All rights and remedies of Seller or Buyer herein are in addition to, and shall not exclude, any rights or remedies that either may have by law. In the event it becomes necessary to incur any expense for collection of any overdue account then reasonable and documented collection charges, including reasonable attorneys’ fees, will be added to the balance due and Buyer shall pay all such charges in accordance with the payment terms herein.

4. Seller’s Rejection of Order: Seller reserves the right to reject any Order placed by Buyer with or without cause. Should Seller reject an Order, Buyer will be notified electronically of such action and Seller will neither invoice nor charge Buyer for such rejected Order. Alternatively, Seller may elect to suspend an Order and contact Buyer for clarification; should Buyer and Seller resolve any issues causing the suspension and agree to either complete the Order as is or in a revised

form, such Order will then be accepted and fulfilled by Seller.

5. Delivery: Seller will deliver the Prencia Products as set forth in the applicable Quotation. Seller assumes no responsibility or liability and will accept no backcharge for loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Seller, including but not limited to liability for Seller's non-performance pursuant to Section 21 hereunder or any other cause of any kind beyond Seller's control. In the event of a shipment of Prencia Products having been lost or damaged during transit, Seller's entire responsibility is limited to re-shipping the Prencia Products to Buyer and using Buyer's preferred and reasonable method of shipment at Seller's expense.

6. Products Acceptance Period: Except for the purchase of training courses whereby no warranties exist, Buyer and Seller agree that all Prencia Products provided per these Terms and Conditions will be deemed accepted by Buyer thirty (30) days after delivery. Nothing in this paragraph will affect any warranty period for the Prencia Products covered by the EULA or a variation otherwise referenced in the Quotation.

7. Disclaimer of Warranties: EXCEPT AS SET OUT IN THE EULA, ALL PRENSCIA PRODUCTS PURCHASED UNDER THESE TERMS AND CONDITIONS OR ANY ORDER, OR ANY PURCHASE BETWEEN THE SELLER AND BUYER ARE PROVIDED "AS IS." THE SELLER MAKES NO OTHER REPRESENTATIONS AND GRANTS NO WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE. SELLER SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ALL IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

8. Limitation of Liability: TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT PRODUCT LIABILITY, OR OTHERWISE), SHALL THE SELLER BE LIABLE TO BUYER FOR ANY DIRECT OR INDIRECT LOSS OF PROFIT, LOSS OF USE, LOSS OF ANTICIPATED SAVINGS, LOSS OF ANTICIPATED REVENUE, LOSS OF GOODWILL, LOSS OF DATA, REGULATORY FINES, OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY LOSSES OR DAMAGES ARISING OUT OF THESE TERMS AND CONDITIONS OR THE SALE OF THE PRENSCIA PRODUCTS TO THE BUYER, WHETHER OR NOT SUCH CLAIMS, LOSSES, OR DAMAGES

WERE REASONABLY FORESEEABLE TO THE SELLER. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT WILL THE SELLER'S LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS OR THE SALE OF PRENSCIA PRODUCTS TO THE BUYER EXCEED THE PURCHASE PRICE PAID BY BUYER FOR THE SPECIFIC PRENSCIA PRODUCTS WHICH GAVE RISE TO THE CLAIM.

9. Intellectual Property: As between Seller and Buyer, Seller and its licensors and suppliers own and shall retain all proprietary rights, including any and all patent, copyright, trade secret, trademark and other intellectual property rights, in and to the Prencia Products delivered to Buyer. Buyer shall not remove, erase, or modify any copyright, trademark, patent, confidentiality, and/or other notices, marks or legends affixed by Supplier or its suppliers to the Prencia Products.

10. Confidential Information: Buyer agrees to hold any Confidential Information (as defined below) it obtains as a result of purchasing the Seller's Prencia Products in confidence and, unless required by law, not to make the Confidential Information available to any third party or to use the Confidential Information for any purpose other than the business activities for which the Buyer is given access to the Confidential Information. Buyer agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of these Terms and Conditions. For purposes of these Terms and Conditions, "Confidential Information" refers to all non-public verbal or written information, including electronically transmitted information, which refers to Seller's business, technology, services, and products or that of one of its subsidiaries or affiliates and is disclosed to the Buyer for purposes of purchasing the Seller's Prencia Products. This includes, but is not limited to, product data, business plans, drawings, reports, inventions, notifications, designs, marketing strategies, price calculations, financial programs, product ideas, production processes, prototypes, suppliers list, business secrets, and other know-how and information. This Section shall not apply to information which is (i) in the public domain, (ii) already known to the Buyer, (iii) developed independently or (iv) received from a third party without similar restriction and without breach of these Terms and Conditions or a similar agreement.

11. Export Laws: Buyer agrees to comply with all export and re-export control laws and regulations, as may be applicable to the purchase of the Prencia Products hereunder, including without limitation the Export Administration Regulations and the International Traffic in Arms Regulations. Therefore, Buyer shall not (a)

permit any third party to access or use the Prencia Products in violation of any U.S. law or regulation; or (b) export the Prencia Products or otherwise remove the Prencia Products from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, Buyer shall not permit any third party to access or use the Prencia Products, or export the Prencia Products to, a country subject to a United States embargo.

12. Taxes: The amount of any sales, excise, or other taxes, if any, applicable to the Prencia Products shall be added to the purchase price and shall be paid by Buyer, unless Buyer provides Seller with an exemption certificate or direct pay authority acceptable to the taxing authorities. Any taxes which Seller may be required to pay or collect with respect to the sale, purchase, delivery, storage, processing, use, or consumption of any of the Prencia Products, including taxes upon or measured by the receipts from the sale thereof, shall be charged to the Buyer's account. Buyer agrees to promptly pay the amount to Seller upon demand.

13. Set-Off: Buyer shall not be entitled to set-off any amounts it is due against any amounts due by Seller in connection with any specific Order or sale of Prencia Products or related services from the Seller to the Buyer.

14. Governing Law and Venue: All questions concerning the validity, operation, interpretation, and construction of the Contract will be governed by and determined in accordance with the substantive laws of the Commonwealth of Massachusetts without regard to conflicts of law provisions. Both parties acknowledge and agree that the U.N. Convention on Contracts for the International Sale of Goods shall not apply to the Contract. Other than as necessary to enforce any final judgment, award or determination, any action brought pursuant to or in connection with this agreement shall be brought only in the state or federal courts within the Commonwealth of Massachusetts and in any such action, both parties submit to the personal jurisdiction of such state and federal courts situated in the Commonwealth of Massachusetts and waive any objections to venue of such courts.

15. Waiver of Jury Trial: Buyer and Seller hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

16. Severability, Interpretation: These Terms and Conditions shall not be construed against the party preparing them but shall be construed as if all parties jointly prepared these Terms and Conditions and any

uncertainty or ambiguity shall not be interpreted against any one party. If any provision hereof is held to be illegal, invalid, or unenforceable under any present or future laws, such provision shall be fully severable and these Terms and Conditions shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been made a part hereof. The remaining provisions herein shall remain in full force and effect and shall not be affected by such illegal, invalid, or unenforceable provisions or by their severance from these Terms and Conditions.

17. Time Limits for Bringing Claims: Notwithstanding any attempts to resolve differences or negotiations regarding such differences, all claims or actions, regardless of form, arising out of or related to the Seller's sale of Prencia Products or related services to the Buyer must be filed within the applicable statutory period, but in no event more than six (6) months after the Seller shipped or provided the Products in question.

18. Non-Waiver: Seller's failure to insist upon the strict performance of any term or condition herein shall not be deemed a waiver of any of Seller's rights or remedies hereunder, nor of its respective right to insist upon the strict performance of the same or any other term herein in the future. No waiver of any term or condition hereunder shall be valid unless in writing and signed by Seller or Buyer, as the case may be.

19. Assignment: Buyer may not assign, transfer, subcontract, or otherwise part with any of its obligations under the agreement with Seller without the Seller's prior written consent, such consent not to be unreasonably withheld.

20. Notices: Any notice or communication required or permitted to be given by either party under these Terms and Conditions shall be in writing and sent by registered or certified mail, return receipt requested, or by confirmed facsimile transmission or by an overnight delivery service to Seller at the address provided in the Quotation or to the Buyer at the address provided in the Order.

21. Force Majeure: Notwithstanding anything to the contrary in these Terms and Conditions and Conditions, Seller shall not be liable to Buyer for any loss or damage which may be suffered by Buyer as a direct or indirect result of the supply of Prencia Products or services being prevented, delayed or rendered uneconomic by reason of circumstances or events beyond the Seller's reasonable control, including, by way of illustration but not limitation, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government

or any agency or subdivision thereof, judicial action, labor dispute, accident, fire, explosion, floods, storm, pandemic or other act of God, shortage of labor, or technical failure where Seller has exercised ordinary care in the prevention thereof. If any such event occurs, Seller may allocate deliveries among Seller's customers.

22. Entire Agreement: These Terms and Conditions and the other Seller documents referred to herein (such as the Seller's Quotation, Statement of Work, the EULA, if applicable, and any other document which Seller has attached or referenced in its transaction documents), constitute the entire, complete, and exclusive agreement between the Seller and Buyer with respect to the subject matter hereof and contain all the terms and conditions of sale.

23. Government Contracts: If the Prencia Products to be furnished under the Contract are to be used in the performance of a U.S. Government contract or subcontract, the Government contract number and a statement to that effect shall appear on Buyer's purchase order. If Buyer's purchase order includes all of said information and if said order is accepted in writing by Supplier, then those clauses of the applicable Government procurement regulations which are mandatorily required by Federal statute or regulation to be included in this Contract shall be incorporated herein by reference. In all other events, said clauses shall not be incorporated herein by reference. If any software delivered as a product or component of a product is licensed to the U.S. government or for use in the performance of a U.S. government prime contract or subcontract, Buyer agrees that the software is delivered as "Commercial computer software" as defined in DFARS 252.227-7014 (Feb 2014), or as a "commercial item" as defined in FAR 2.101(a), or as "Restricted computer software" as defined in FAR 52.227-14 (May 2014) (or any equivalent agency regulation or contract clause), whichever is applicable. Buyer further agrees and acknowledges that such software has been developed entirely at private expense by Supplier and or its licensees and suppliers.

24. Additional Terms for Seller Events: If the Order or Quotation involves registration for public Seller Events (hereinafter referred to as "Seller Events" or "Event") then the following additional terms shall apply:

1. Registrations must be used within 24 months of purchase or will be forfeited.
2. Travel & Accommodations: Attendees are responsible for their own travel arrangements and hotel reservations.
3. Substitutions: Substitutions are allowed, provided that Seller is notified prior to the Event start date.

4. Cancellations: Cancellations received up to 10 working days prior to the Event start date will be entitled to a refund of the registration fee. After this period, all cancellations will be subject to the entire fee. If purchasing a software/training bundle, seminar cancellations are not refunded; however, you may substitute another attendee or transfer to another course (see "Transferring" below).

5. Transferring: Provided that the Seller receives notification prior to the Event start date, Buyer may transfer to another scheduled Event once at no cost; a small fee will be assessed for each additional transfer. If the price for the new Event is higher, Buyer will be billed for the difference. There are no refunds when transferring to an Event with a lower fee.

6. No Shows: Registrants who do not attend the Event and who do not notify the Seller prior to the start date will be subject to the full registration fee and will not have the ability to transfer the registration.

7. Event Cancellation: Although unlikely, the Seller reserves the right to cancel an Event at any time up to two (2) weeks and, in the case of online Events one (1) week prior to the start date at the Seller's discretion, or at any time prior to or during the course due to circumstances outside the Seller's control (including per Section 21 of these Terms and Conditions). If this occurs, Buyer will automatically be transferred to the next upcoming Event. If transfer is not acceptable, registration fees will be refunded upon request. The Seller is not responsible for any other costs that Buyer may incur, including non-refundable airline tickets.

8. Video/Photograph Disclaimer: By registering for an Event, Buyer recognizes that the Seller may occasionally take photos or video footage of the Event and Buyer hereby agrees to the Seller's video/photograph disclaimer policy which can be found at <https://www.hbmprencia.com/photo>.

9. All Courses Use Computers: For an Event held at the HBK Training Facility in Detroit, computers will be available to use free of charge. In some other venues, the Seller may offer to provide a PC for an additional rental fee (indicated when you register for the course if available). For all other situations, please plan to bring a laptop; you will receive instructions to prepare it with the software that will be needed.

10. Seminar Fee Includes: Lectures provided by the Seller's experienced pool of instructors, lecture notes and other course handouts, evaluation copies of the Seller's software, and, in the case of classroom Events, lunch and refreshments. A certificate of attendance will be provided.

11. ARDC Registration Fee Includes: Attendance to the Buyer's choice of presentations, access to the

Hottinger Bruel & Kjaer Inc.
Standard Terms and Conditions of Sale – PRENSCIA Products
January 2021



Event proceedings and any other handouts, and, in the case of classroom Events, a variety of food options and refreshments served during breaks (Consult the Event program for specific details.) A certificate of attendance will be provided.
