

TEKTRONIX WORLDWIDE TERMS AND CONDITIONS OF SERVICE

The Tektronix Worldwide Terms and Conditions of Service set forth the rights, duties and obligations of Tektronix and the Customer with respect to standard Repair, Calibration, maintenance and/or Testing Services performed by Tektronix.

1. DEFINITIONS

As used in these terms and conditions:

- a. **"Affiliate"** means any entity that directly or indirectly through one or more intermediaries Controls or is Controlled by such person or is under direct or indirect common Control with such person.
- b. **"Calibration"** means calibration verification or functional verification, as determined by Tektronix, during the period of service and includes Certification of Calibration Verification or Certification of Functional Verification. The interval of Calibration is determined by Tektronix based on the manufacturer's recommended calibration cycle unless otherwise stated in the Service Agreement.
- c. **"Certification of Calibration Verification"** means a certificate attesting traceability to a national standards organization.
- d. **"Certification of Functional Verification"** means a non-traceable certificate of conformance.
- e. **"Control"** means, in respect of an entity, the ability to control, directly or indirectly, through ownership, by contract or otherwise, the composition of the board of directors or other governing body, the voting rights of the majority of voting securities, or the management of the affairs of that entity.
- f. **"Customer"** means the legal entity or natural person who has purchased the Service or Plan.
- g. **"Designated Service Center"** means a Tektronix site where Service is performed.
- h. **"Equipment"** means the Customer equipment covered by the Service Agreement, Plan, quotation, or acknowledgement.
- i. **"Plan"** means any Factory Service Plan as designated in the Service Agreement description or at [Tek Factory Service Plans](#). Plans are subject to additional terms and conditions which can be found [here](#).
- j. **"Repair"** means remedial maintenance, including all parts and labor necessary to return the Equipment to the Specifications, subject to the exclusions (if any) identified in the Service Agreement or these Terms. Damage to sampling modules/heads caused by electro-static discharge or electrical over stress is excluded from Repair coverage.
- k. **"Service Agreement"** means the agreement, statement of work, quotation, acknowledgement, or Plan describing the Service to be performed.
- l. **"Service Charges"** are the fees specifically stated in the Service Agreement for the Equipment specified.
- m. **"Service(s)"** means Repair and replacement, Calibration and maintenance and/or Testing services as described in the applicable quotation or SOW.
- n. **"Specifications"** means the Equipment performance specifications determined by Tektronix.
- o. **"Tektronix"** means Tektronix, Inc. or the Tektronix Affiliate that has contracted to provide the Service.
- p. **"Testing Services"** means environmental, package, vibration, climatic, HALT & HASS, and NEMA compliance testing.

2. TERM

The effective date and the term of the Service Agreement is shown on the applicable quotation, acknowledgement, or Service Agreement. Except as otherwise provided below in Section 12 (Suspension of Service; Termination), the Service Agreement will expire at the end of the term unless both parties agree in writing to an extension.

3. SERVICE AREA

Services will be managed within the country where the order is booked by Tektronix. Some Services may be performed outside the country where the order is placed except as prohibited by the Customer or applicable laws.

4. SERVICE TERMS

Tektronix will provide the Services in accordance with the applicable Service Agreement. Tektronix will provide the Services at a Designated Service Center during normal business hours (excluding Tektronix holidays), unless otherwise specified in the Service Agreement. Unless otherwise specified in the Service Agreement, Customer will be responsible for shipping Equipment both to and from the Designated Service Center. If Tektronix arranges for the shipping, Tektronix will invoice Customer for a shipping and handling charge for all Equipment shipped covering freight, insurance and packaging.

Customer will at all times allow Tektronix access to Equipment when Service is required. Customer will ensure that the Equipment user cooperates with Tektronix to the extent necessary to allow Service to be performed efficiently and without interruption. For on-site Service, Customer will allow Tektronix to use any Customer equipment or facilities that Tektronix reasonably deems necessary for the performance of the Service.

RoHS 2 Notice: Tektronix may be unable to perform repairs on certain equipment that is manufactured to be compliant with the EU RoHS 2 Directive, REACH or substantially similar product compliance requirements (other than Tektronix branded equipment). Customer must notify Tektronix in writing when requesting repair services for any such equipment. Customer's notice must include specific model numbers of all such equipment in the service order. Tektronix will not be responsible or liable for failing to use RoHS 2, REACH or similar compliant parts and materials on products not manufactured by Tektronix.

Metrology Certifications: Tektronix certifications can be viewed [here](#). Tektronix makes no guarantees or certifications beyond those identified. Tektronix is not licensed or certified to perform metrology services in relation to the mandatory technical and legal requirements which have the objects of ensuring public guarantee ("Legal Metrology").

5. COVERAGE ELIGIBILITY

Except for Equipment within the initial warranty period or which is already covered by a Service Agreement, Equipment is only eligible for coverage after the Equipment has been inspected and accepted by an authorized Tektronix service representative. Customer is responsible for identifying any performance deficiencies prior to or at the time of requesting Service coverage. Any Equipment with performance deficiencies may be brought up to Specifications at then-current Tektronix per call rates, upon Customer's request. If newly covered Equipment is subsequently determined by Tektronix not to meet Specifications due to a pre-existing, unidentified deficiency, Customer must request in writing that Tektronix bring the Equipment up to Specifications at then-current Tektronix per call rates or Tektronix will remove the Equipment from the Service Agreement with no further obligation for such Equipment. Customer will not transfer any Equipment covered by a Service Agreement to another Customer site or other location without the prior written consent of Tektronix (such consent not to be unreasonably withheld).

6. SOFTWARE

All use of the CalWeb.tek.com site and Tektronix's CalWeb Service shall be governed by the CalWeb® Terms and Conditions of Use, available at [CalWeb](#).

7. SERVICE CHARGES

Service Charges will be increased to include Equipment added to a Service Agreement from time to time at the then-current rates. Unless otherwise specified in the Service Agreement, Service Charges will be invoiced upon completion of Service. When the Services are sold through a Tektronix authorized reseller, the Service Charges are designated by and payable to the reseller.

8. PURCHASE ORDERS

Customer's submission of a purchase order or acceptance of Service in response to or in anticipation of a Service Agreement will be deemed acceptance of these terms and conditions to the exclusion of any additional or different terms or conditions on Customer's purchase order or other Customer documentation, even if such purchase order or documentation states otherwise.

9. TAXES

All prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, including by way of example only value-added tax, duties, and charges (collectively, "Charges") of any kind imposed by any governmental authority on any amounts payable by Customer. Customer shall be responsible for all Charges; provided, that, Customer shall not be responsible for any taxes imposed on, or with respect to, Tektronix' income, revenues, gross receipts, personal or real property, or other assets. If sales to Customer are exempt from any Charges, Customer shall furnish to Tektronix a certificate of exemption prior to shipment.

10. INVOICES AND PAYMENT

Customer will pay all amounts invoiced by Tektronix within thirty (30) days after the date of the invoice in the same currency as Customer's purchase order, unless otherwise indicated in the Service Agreement. Tektronix will not adjust any Service Charges if Customer fails to utilize any Services under the Service Agreement. Customer will not be entitled to make any deduction for set-off or counterclaim. Without prejudice to its other rights under this Agreement, Tektronix may charge interest at the lesser of 1.5% per month or the maximum amount allowed by applicable law on any balance outstanding after the payment due date, such interest accruing on a daily basis. Tektronix may change its credit terms or suspend its performance when, in the opinion of Tektronix, Customer's financial condition or record of payment so warrants. Customer agrees to pay any third-party collection expenses, including attorney's fees, incurred by Tektronix to collect any past-due amounts.

11. REPLACEMENT PARTS, MODULES AND PRODUCTS

Parts, modules and replacement products used by Tektronix for Services may be new or reconditioned to like-new performance. Customer will not be entitled to reject Equipment on the basis of the inclusion of reconditioned materials. All parts, modules and products replaced by Tektronix will become the property of Tektronix.

12. SUSPENSION OF SERVICE; TERMINATION

Tektronix may suspend the Services or terminate the Service Agreement by written notice to Customer if Customer fails to pay any amount when due, or if Customer breaches any other material provision of these terms and conditions and such breach continues for a period of thirty (30) days after Customer receives written notice from Tektronix describing the breach in reasonable detail. Such termination will not relieve Customer of its obligation to pay Services Charges for any Services provided.

13. WARRANTY

Tektronix warrants that the Services will be performed in a workmanlike manner, that calibrated equipment will remain in calibration for a period not to exceed three (3) months, under normal use and operating conditions, that all parts installed in the performance of the Services will be free from defects in materials and workmanship for a period of three (3) months from the date of Service and that testing environments will meet the specification in the Service Agreement. If any Repair Service or any new or reconditioned part installed in the course of Services proves defective within the three (3) month warranty period, Tektronix will correct the defective work and replace the defective part without charge for labor. Customer must notify Tektronix in writing of the defect before the expiration of the three (3) month warranty period and make suitable arrangements for the re-performance of Service. Materials that are reconditioned to like-new performance and functionality may be used in performance of the Service. Customer shall not be entitled to reject Services or seek any diminution in the price of Services on the basis of the inclusion of reconditioned materials. Tektronix is not responsible for Equipment damaged after return to Customer due to causes unrelated to the Service performed. Tektronix makes no representations or warranties with respect to the Customer's furnished Equipment provided for Testing Service. If any Testing Service proves defective within three (3) months from the date of Service, Tektronix will re-perform the Service. Customer must notify Tektronix of the defect before the expiration of the three (3) month warranty period and make suitable arrangements

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for the re-performance of Services. In the event Tektronix is unable to re-perform the Services, in Tektronix's sole opinion, Tektronix shall refund the Service Charge for the specific Services that cannot be re-performed.

THIS WARRANTY IS GIVEN BY TEKTRONIX WITH RESPECT TO ITS SERVICES IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED. TEKTRONIX, ITS AFFILIATES AND ITS VENDORS DISCLAIM ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, SATISFACTORY QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THEIR EQUIVALENTS IN ANY JURISDICTION. TEKTRONIX' RESPONSIBILITY TO REPLACE DEFECTIVE PARTS AND CORRECT ITS WORK OR REPERFORM SERVICE IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO THE CUSTOMER FOR BREACH OF THIS WARRANTY.

14. EXCLUSIONS

Tektronix will not be liable or responsible under any warranty or other obligation to:

- a. service any Equipment that has been damaged, abused, overused or misused as determined by Tektronix;
- b. service any Equipment that has received unauthorized modification, repair or service that impairs performance or impedes normal service;
- c. paint or refinish any Equipment for cosmetic purposes;
- d. provide any application software support or any service involving application hardware; or
- e. repair or replace any accessories, unless otherwise provided in the Service Agreement.

Such services may be provided by Tektronix at its discretion, at Customer's request and charged to Customer at the then current rates for parts and per call service.

15. FORCE MAJEURE

Tektronix shall not be responsible for any delay or failure to perform due to any cause beyond its reasonable control, including acts of terrorism, nature or governments; pandemics; interruptions of telecommunications, power or transportation; failure of contractors or suppliers; or inability to obtain necessary labor or materials. If any such event occurs, Tektronix reserves the right to cancel the applicable order.

16. LIMITATION OF LIABILITY

EXCEPT WHERE PROHIBITED BY LAW, IN NO EVENT WILL TEKTRONIX, ITS REPRESENTATIVES, AFFILIATES OR VENDORS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, LOSS OF USE, LOST TIME, LOST DATA RESULTING FROM THE DAMAGE OR FAILURE OF A SERVICED PRODUCT OR FROM DELAYS IN SERVICING A PRODUCT, THE INABILITY TO RENDER SERVICE ON A PRODUCT OR DIMINUTION IN VALUE ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH ANY BREACH OF THESE TERMS AND CONDITIONS, OR ANY OTHER REASON WHATSOEVER, EVEN IF SUCH DAMAGES WERE FORESEEABLE BY TEKTRONIX OR TEKTRONIX WAS ADVISED BY CUSTOMER OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY UPON WHICH THE CLAIM IS BASED.

IN NO EVENT WILL TEKTRONIX' LIABILITY FOR ALL CLAIMS ARISING OUT OF THE PROVISION OF SERVICES UNDER THIS AGREEMENT EXCEED THE LESSER OF THE FEES PAID BY CUSTOMER FOR THE SPECIFIC SERVICE GIVING RISE TO THE CLAIM OR THE TOTAL FEES PAID BY THE CUSTOMER OVER THE PREVIOUS SIX MONTHS UNDER THE SPECIFIC SOW GIVING RISE TO THE CLAIM.

17. EXPORT RESTRICTIONS

Customer must notify Tektronix in advance of shipment if products or related technical information (e.g. calibration specifications) provided to Tektronix are controlled by the International Traffic in Arms Regulations. All technical information must be marked as ITAR controlled, and Customer should mark all technical data with any applicable Department of Defense distribution statement. At the request of Tektronix, Customer must provide applicable international trade compliance information. If ECCN/USML classification of Customer's product requires a US export license for return shipment to Customer, Customer agrees to participate in applicable licensing procedures. If a party to the transaction, including Customer, is named on a US or EU Restricted Party list or is located in a country subject to US or EU sanctions, Customer agrees to participate in applicable licensing procedures. Tektronix will have no liability for delayed delivery or non-delivery resulting from denial, revocation, suspension or governmental delay in issuance of any necessary export license or authority.

18. NOTICES

All notices required or authorized by these terms and conditions will be given in writing and will be deemed effective upon receipt. Notices to Customer will be sent to the address shown in Customer's purchase order. Service notices to Tektronix will be sent to the office of Tektronix designated as responsible for the Service. Legal notices to Tektronix must be sent to the Tektronix corporate headquarters (currently located in Beaverton, Oregon).

19. AMENDMENT

An amendment or waiver of any provision of these terms or conditions will not be effective unless agreed in writing and signed by an authorized representative of each party. No distributor, reseller or channel partner can amend these terms or conditions, and any such attempts are null, void and without any effect. These terms and conditions will not be deemed modified or amended through any course of trade, course of performance or similar concept.

20. ASSIGNMENT; TRANSFER

Customer may not assign or otherwise transfer, subcontract or delegate its rights or obligations under these terms and conditions or Service Agreement without the prior written consent of Tektronix. Any attempt by Customer to assign, subcontract or delegate any rights or obligations without written consent will be null and void and will grant Tektronix the right to terminate these terms and conditions and any Service Agreement.

21. PERSONAL DATA

Tektronix may collect personal data in connection with these Terms. Tektronix will process such personal data as set forth in the applicable Tektronix Privacy Policy/Statement/Notice available at <https://www.tek.com/privacy-statement>

22. WAIVER

The failure of either party to enforce at any time any provision of these terms and conditions will not be construed as a waiver of such provision or the right to subsequently enforce each and every provision. No waiver by either party, either express or implied, of any other breach of any of these terms and conditions will be construed as a waiver of any other breach of such term or condition.

23. GOVERNING LAW

The rights and obligations of the parties shall be governed by and construed in accordance with the laws of the jurisdiction where the Tektronix selling entity is incorporated without giving effect to its principles of conflict of laws, and exclusive venue shall be in the courts of said jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms.

24. DISPUTE RESOLUTION

The parties shall first attempt in good faith to resolve any dispute, controversy, or claim arising out of or relating to these Terms, or the breach, termination, or invalidity hereof (each, a "Dispute") by negotiation and consultation between themselves at the program level within thirty (30) days from the date an issue is raised by either party. If a Dispute cannot be resolved at the program level, it will be escalated to senior management, where the executive leaders of the parties shall attempt to resolve the Dispute within sixty (60) days from the escalation date. If the Dispute is still not resolved at the senior management level, then either party may, upon written notice, initiate an action with a court of competent jurisdiction pursuant to the Governing Law section. Nothing in this section shall restrict the right of the parties to immediately seek an injunction in any court of competent jurisdiction if there is a threat of irreparable injury, or for Tektronix to bring an action in the court of any jurisdiction where Customer is located or using Tektronix Service to enforce Tektronix's intellectual property rights.

25. ORDERS UNDER U.S. GOVERNMENT CONTRACTS

If the Service Agreement is being placed pursuant to a U.S. government contract, whether by the U.S. government as the end user, a prime contractor or higher tiered subcontractor to the U.S. government, Customer acknowledges that this order is for commercial services only under a Firm Fixed Price type contract. Tektronix agrees to comply with each of the subcontractor flow down requirements cited in Federal Acquisition Regulation 52.244-6, Subcontracts for Commercial Items (Jan 2017), where the inclusion of the clause is mandated by FAR 52.244-6(c)(1) and to the extent the applicable thresholds are met by the Service Agreement.

26. SEVERABILITY

If any term or provision of these terms and conditions is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of these terms and conditions or invalidate or render unenforceable such term or provision in any other jurisdiction.

27. SURVIVAL

The provisions of terms and conditions that by their nature continue, including, but not limited to warranty and limitation of liability, will survive any expiration, cancellation or termination of terms and conditions.

28. HEADINGS

The headings in these terms and conditions are for reference only and do not define, modify, expand or limit any of the terms or provisions.

29. ENTIRE AGREEMENT

These terms and conditions and the Service Agreement will comprise the entire agreement between the parties with regard to the Services. Customer has not relied on any statement or representation of Tektronix or any person on behalf of Tektronix other than the representations, warranties and agreements expressly contained in these terms and conditions. All negotiations and prior agreements relating to the Service Agreement and any terms or conditions included within Customer's purchase orders, are superseded by these terms and conditions.