



Terms and Conditions of Gift

The AGILENT TECHNOLOGIES entity mentioned on the Quote (hereafter, AGILENT) gift of Products and Support and AGILENT license of Software are governed by these AGILENT Terms and Conditions of Gift.

1. DEFINITIONS

- a) "Exhibits" are documents that describe or otherwise apply to the gift or license of Products or support.
- b) "Price List" is AGILENT's listing of available Products, Support and prices in the locations where Recipient places orders and takes delivery.
- c) "Products" include hardware, software, options, documentation, accessories, supplies, spare parts and upgrades on AGILENT's Price List on the date AGILENT receives Recipient's order. "Special Products" are Products which have been modified under mutual agreement to meet Recipient requested changes.
- d) "Software" is one or more programs, capable of operating on a computer, processor, or controller which is either listed separately as a Software Product on the Price List; included with another Product on the Price List ("Bundled Software"), or fixed in hardware and not removable in normal operation ("Firmware").
- e) "Specifications" include specific technical information about AGILENT Products which is published in AGILENT Product manuals and technical data sheets in effect on the date AGILENT ships Recipient's order.
- f) "Support" includes hardware maintenance and repair; software updates and maintenance; training; and other standard support services provided by AGILENT. "Custom Support" is any agreed non-standard support, including consulting and custom project services.
- g) "Delivery" is standard AGILENT shipping to and arrival at the receiving area at the 'SHIP TO' address in the country where Recipient's order is placed, unless otherwise indicated on the quotation.

2. DELIVERY

Delivery is subject to AGILENT's product availability at the time Recipient's gift order is placed. AGILENT will make every reasonable effort to meet delivery dates quoted or acknowledged, but will not be liable for failure to meet such dates. Recipient will specify 'SHIP TO' address within the country where the order is placed.

3. SHIPMENTS AND RISK OF LOSS

- a) AGILENT will ship according to our standard commercial practice and title to hardware Products and risk of loss and damage will pass to Recipient at 'SHIP TO' address.
- b) Recipient requested special packing or shipping instructions must be mutually agreed upon. Charges will be billed separately to Recipient and title to hardware Products and risk of loss and damage will pass to Recipient at AGILENT's shipping dock on delivery to Recipient's carrier.

4. INSTALLATIONS and RECIPIENT ACCEPTANCE OF PRODUCT

- a) Product installation classification is defined by codes appearing on AGILENT's Price List. AGILENT's installation, when included in the gift, will be considered complete when the Product passes AGILENT's installation and test procedures.
- b) Acceptance by Recipient will occur upon completion of AGILENT's installation for Products with installation included in the gift and upon delivery for Products without installation in the gift. When the gift of a Product does not include AGILENT's installation, acceptance by Recipient will be presumed unless Recipient demonstrates within 14 days after delivery that the Product does not pass AGILENT's established test procedures or programs.
- c) If AGILENT's installation is scheduled or delayed by Recipient more than 30 days after delivery, Recipient's acceptance of the Products will occur on the 31st day after the delivery date.

5. SUPPORT (if applicable)

- a) Support is generally not included in AGILENT equipment gifts. An order for Support will constitute Customer or Recipient acceptance of the terms of the Exhibit for that Support in effect on the date of order, which terms are incorporated by this reference.
- b) To be eligible for Support, Products must be in good operating condition and at the current specified revision levels. AGILENT will charge AGILENT's standard rates in effect on the date of the Support order to bring non-eligible Products up to these requirements.
- c) AGILENT may, at no additional charge, modify Products to improve operation and reliability or to meet legal requirements.
- d) Relocation of Products is Recipient's responsibility and may result in additional Support charges and modified service response times. Products moved to another country may continue to be serviced subject to availability of an AGILENT authorized Support provider.
- e) AGILENT does not provide Support for non-qualified products. "Nonqualified Products" are hardware and software not supplied or approved by AGILENT, and Products for which Recipient does not allow AGILENT to incorporate modifications. Recipient is



RUNTIME: Recipient may Use only the execution features of the Software and none of its program development features.

- d) AGILENT grants to Recipient a license to Use Software fixed in hardware and not removable in normal operation only when operating the associated Product in the configuration in which that Product is granted by AGILENT or subsequently upgraded by AGILENT. Recipient may transfer Software fixed in hardware and not removable in normal operation only upon transfer of the associated hardware Product.
- e) The following licenses are available for selected Software if so indicated on the Price List and granted by AGILENT: 1) Recipient may make and Use one copy of that Software licensed directly from AGILENT;
- f) Recipient's license does not include the right to updates, upgrades or other enhancements. AGILENT reserves the right to require an additional license and fee for Use of the Software on upgraded computers, processors, or controllers.
- g) Software bundled with a hardware Product may be used only with that hardware Product in the configuration in which that Product is granted by AGILENT or subsequently upgraded by AGILENT.
- h) Recipient's license confers no title or ownership in the Software and no rights in any associated source code, and will not be construed as a sale of any rights in Software.
- i) Recipient may not disassemble or decompile the Software unless AGILENT's prior written consent is either obtained or not required by law. Upon request, Recipient will provide AGILENT with reasonable detailed information regarding any disassembly or decompilation.
- j) Recipient's entire license in Software is transferable subject to AGILENT's prior written authorization. Recipient will immediately upon transfer deliver all copies of the Software to the party to whom AGILENT has authorized transfer or Recipient's license. The transferee must agree in writing to the terms of Recipient's license. All license terms will be binding on involuntary transferees. Recipient's license will automatically terminate upon any transfer.
- k) Any third party supplier of Software may protect its rights against infringement of its copyright and violations of Recipient's license.
- l) AGILENT may terminate Recipient's or any transferee's or any sub licensee's license in Software upon notice for failure to comply with any applicable license terms. In the event of termination of Recipient's license for any other reason, Recipient will destroy or return to AGILENT the Software and all copies of the Software immediately upon termination. Recipient will remove and destroy all copies of the Software from any adaptation into which they are merged, except for individual pieces of Recipient data in a related database. With AGILENT's written consent, Recipient may retain one copy of the Software subsequent to termination for archival purposes.
- m) If Software is licensed for use in the performance of a U.S. government prime contract or subcontract, Recipient agrees that Software is delivered as "Commercial Computer Software" as defined in DFARS 251.227-7013 or "restricted computer software" as defined in FAR 51.227-19 if used, respectively in the performance of a Department of Defense ("DOD") or non-DOD U.S. government contract. Recipient agrees that the regulations and obligations in Exhibit U1 apply to all such Software and that the Software is adequately marked when the Restricted Rights Legend in Exhibit U1 is affixed to the Software media. Recipient further agrees that the Software has been developed entirely at private expense.

8. INTELLECTUAL PROPERTY RIGHTS

- a) AGILENT will defend or settle any claim against Recipient that a Product or Support delivered under these AGILENT Terms and Conditions of Gift infringes a patent, utility model, industrial design, copyright, mask work or trademark in the country where Recipient uses the Product or receives Support, provided Recipient:
 - 1) Promptly notifies AGILENT in the writing of the claim; and
 - 2) Cooperates with AGILENT in, and grants AGILENT sole control of the defense and any related settlement.
- b) AGILENT will pay the cost of such defense and settlement and any cost and damages finally awarded by a court against Recipient. If such a claim is made or appears likely to be made, AGILENT may procure the right for Recipient to continue using the Product, may modify the Product or may replace it. If a court enjoins use of the Product and AGILENT determines that none of these alternatives is reasonably available, AGILENT will take back the Product.
- c) AGILENT has no obligation for any claim of infringement arising from:
 - 1) AGILENT's compliance with any designs, specifications or instructions of Recipient;
 - 2) Modification of the Product by Recipient or a third party;
 - 3) Use of the Product in a way not specified by AGILENT; or
 - 4) Use of the Product with products not supplied by AGILENT.
- d) These terms state the entire liability of AGILENT for claims of infringement by Products and Support supplied by AGILENT.

9. LIMITATION OF REMEDIES AND LIABILITY

- a) AGILENT will not be liable for performance delays or for non-performance, due to causes beyond its reasonable control.
- b) Products are not specifically designed, manufactured or intended for sale as parts, components of assemblies for the planning, construction, maintenance, or direct operation of a nuclear facility. Recipient is solely liable if Products or Support received by Recipient are used for these applications. Recipient will indemnify and hold AGILENT harmless from all loss, damage, expense or liability in connection with such use.



Agilent Technologies

- c) AGILENT will be liable for damage to tangible property per incident up to the greater of \$300,000 or the actual amount of the Product granted by AGILENT that is the subject of the claim, and for damages for bodily injury or death, to the extent that all such damages are determined by a court of competent jurisdiction to have been directly caused by a defective Product granted hereunder.
- d) For any material breach of Support services by AGILENT, Recipient's remedy and AGILENT's liability will be limited to a refund of the related Support charges paid during the period of breach, up to a maximum of 12 months.
- e) THE REMEDIES IN THESE AGILENT TERMS AND CONDITIONS OF GIFT ARE RECIPIENT'S SOLE AND EXCLUSIVE REMEDIES. EXCEPT AS INDICATED ABOVE, IN NO EVENT WILL AGILENT OR ITS SUBCONTRACTORS BE LIABLE FOR LOSS OF DATA, SOFTWARE RESTORATION OR FOR DIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING DOWN TIME OR LOST PROFIT), OR OTHER DAMAGE WHETHER BASED IN CONTRACT, TORT, OR OTHERWISE.

10. GENERAL


- a) Recipient hereby declares that they are not, directly or indirectly, receiving the Products and Support under this agreement on behalf of any political party or an organization related thereto.
- b) Recipient agrees to bear all applicable taxes on gift received under this agreement.
- c) Transactions may be conducted through Electronic Data Interchange ("EDI") or other electronic methods, as agreed.
- d) Neither party may assign any rights or obligations without prior written consent of the other party.
- e) If either party becomes insolvent, is unable to pay its debts when due, received appointed, or has its assets assigned, the other party may terminate this Agreement without notice and may cancel any unfulfilled obligations.
- f) Recipient who exports, re-exports or imports Products, technology or technical data received hereunder, assumes responsibility for complying with all applicable laws and regulations, and for obtaining required export and import authorizations. AGILENT may suspend performance if Recipient is in violation of applicable regulations.
- g) Disputes arising in connection with these AGILENT Terms and Conditions of Gift will be governed by the laws of the country and locality in which recipient is located.
- h) Some newly manufactured Products may contain remanufactured parts equivalent to new in performance. Service parts are new or equivalent to new.
- i) Any term of these AGILENT Terms and Conditions of Gift, that is held to be invalid, will be deleted, but the remainder of these terms will not be affected.
- j) Neither party's failure to exercise any of its rights under these terms will constitute or be deemed a waiver or forfeiture of those rights.
- k) No government procurement regulations or contract clauses are binding on either party unless required by law or mutually agreed.
- l) These AGILENT Terms and Conditions of Gift and any attachments constitute the entire agreement between AGILENT and Recipient relating to transactions hereunder and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. Recipient's additional or different terms and conditions will not apply. Recipient's purchase or license of Products and Support will constitute Recipient's acceptance of these AGILENT Terms and Conditions of Gift, which may not be changed except by an amendment signed by an authorized representative of each party.
- m) If training classes and/or consulting services are included in the gift, they shall be completed no later than ninety (90) days from the date of equipment installation. Training classes shall be at an AGILENT location and do not include housing, transportation or other expenses, pursuant to AGILENT's Education Catalog terms and conditions.
- n) Except as expressly provided for herein, no licenses to Agilent intellectual property, including patents, trademarks and copyrights, are granted to the Recipient by implication or otherwise. In particular, Recipient is not authorized to use Agilent's trademarks without written authorization from Agilent.

11. ENTIRE AGREEMENT

These items are intended by the parties as a final expression of their agreement with respect to this Gift. These terms and conditions are the entire and only agreement between AGILENT and Recipient and supersede and replace any discussion, representation, statement or other warranty, whether oral or written, about this Gift or the Products transferred hereunder.

Effective as of the _____ Day of _____, 20____ Address: _____

Recipient

Signature: Muqbil S. Dossing 

Typed Name: _____



Agilent Technologies

Title: _____

Addendum

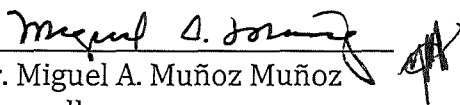
University of Puerto Rico-Contractual Clauses

1. The two parties state that in their practices and proceedings there will be no discrimination on the basis of sex, race, color, place or date of birth, national origin, social status, physical or mental handicap, political or religious beliefs, or status as a military veteran.
2. The two parties are committed to maintaining records of all reports, timesheets for jobs or assistantships, and all other documents related to the services discussed in this Agreement, in order that they be available for examination or copying by the Office of Internal Auditors of the University of Puerto Rico, by a firm of outside auditors hired by the University of Puerto Rico, or by the Office of the Comptroller of Puerto Rico in its auditing of the University of Puerto Rico. Audits will be carried out at reasonable times during the course of the services or after their completion, in accordance with generally recognized auditing practices. Said documents will be kept for a period of no less than six (6) years or until the Office of the Comptroller of Puerto Rico has made its investigation, whichever occurs first.
3. Each of the parties consents to exempt and exonerate the other party from responsibility in the case of any judicial or extrajudicial claim, and to provide indemnization for damages and/or mental or moral anguish that may be suffered by any person or legal entity, when said damages are alleged to have been caused by the negligent, reckless, and/or culpable actions, conduct, or omissions of each party, its agents or employees, when such damages shall have occurred totally or partially during the realization of this Agreement.
4. AGILENT TECHNOLOGIES, INC. shall not use the name of the University of Puerto Rico, its initials UPR, its stamp, logos, seal, or any other identifying emblem or symbol distinctive of the Institution, for any matter related to the activities that are object of this agreement, without express and written authorization by the University of Puerto Rico.
5. AGILENT TECHNOLOGIES, INC. certifies and guarantees that during the performance of this agreement it will comply with the Executive Order 1 1246 of September 24, 1965, Subpart B, Section 202 (41 CFR 60-1.4); the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (41 CFR 60-250.5); the Rehabilitation Act of 1973, Section 503 (41 CFR 60-741.5), all as amended, and any other appliance rules and regulations of the Office of Federal Contract Compliance Programs (OFCCP). AGILENT TECHNOLOGIES, INC. is therefore deemed to have

complied with these regulations, unless otherwise exempted under the rules, regulations and orders of the Secretary of Labor. AGILENT TECHNOLOGIES, INC. recognizes that the absence of truth in this statement will constitute sufficient cause for the University of Puerto Rico first to cancel, terminate or suspend, in whole or in part, this agreement and that AGILENT TECHNOLOGIES, INC. may be declare ineligible for further agreements with the University of Puerto Rico. AGILENT TECHNOLOGIES, INC. also certifies that it has a valid Assurance of Compliance on file.

UPR-Mayaguez Campus/AES

AGILENT TECHNOLOGIES, INC.



Dr. Miguel A. Muñoz Muñoz
Chancellor
UPR, Mayaguez Campus

AGILENT TECHNOLOGIES, INC.
Director

10/29/2010
Date

Date