

WHOOSHH INNOVATIONS INC.

STANDARD TERMS AND CONDITIONS OF SALE

Effective Date: January 1, 2026

These Terms and Conditions of Sale ("Terms") apply to all quotations, sales, rentals, licenses, and deliveries of goods, products, software, and services by Whooshh Innovations, Inc. and its affiliates (collectively, "Whooshh").

1. Applicability; Order of Precedence; Rejection of Customer Terms

1.1 These Terms are the exclusive terms governing any offer, quote, order, sale, rental, shipment, license, or provision of services by Whooshh (each, an "Agreement"). These Terms apply unless Whooshh expressly agrees otherwise in a writing signed by an authorized Whooshh officer.

1.2 Any additional or different terms in a purchase order, vendor form, portal, or other communication from Customer are objected to and will not be binding upon Whooshh, even if Whooshh ships or performs after receiving them.

1.3 Order of precedence in the event of conflict: (a) Whooshh quotation, Sales Order Confirmation ("SOC"), statement of work ("SOW"), or other document expressly overriding portions of these Terms; (b) these Terms; (c) any other referenced documents. If multiple versions of Whooshh standard terms are referenced, the version dated January 1, 2026 controls.

1.4 Customer's authorization to proceed, issuance of a purchase order, payment, or acceptance of delivery or services constitutes acceptance of these Terms.

2. Definitions

- "Customer" means the party purchasing, renting, licensing, or receiving Goods or Services from Whooshh.
- "Goods" means equipment, parts, materials, consumables, and any embedded or delivered software provided by Whooshh.
- "Services" means installation, inspection, maintenance, repair, field services, advisory services, engineering, training, and other services provided by Whooshh.
- "Products" means any combination of Goods and Services delivered under an Agreement.
- "Delivery" means the delivery event described in Section 7.
- "Written" or "in writing" includes email.

3. Quotes; Validity; Assumptions

3.1 Unless otherwise stated in a Whooshh Quote, Quotes are valid for thirty (30) days from issuance and are subject to change or withdrawal prior to acceptance.

3.2 Unless expressly included in a Quote, prices exclude shipping, insurance, taxes, duties, tariffs, custom duties and fees, and onsite infrastructure or utilities (e.g., power, communications, internet).

3.3 Estimated lead times are non-binding. Unless otherwise stated, Quotes may assume long-lead procurement and delivery in 180+ days. Expedited lead times may require additional fees and written agreement.

3.4 Certain software (including fish recognition/analytics) may require separate licensing and is not included unless explicitly stated in the Quote or SOC.

4. Formation of Agreement; Changes; Deletions; Cancellations

4.1 An Agreement is formed only when Whooshh issues a written acceptance (including an SOC) or begins performance after receiving Customer's unconditional acceptance of a Whooshh offer.

4.2 Customer may not change, delete, or add to the scope of Goods or Services except by a written change order signed by Whooshh. Price and schedule will be equitably adjusted for approved changes.

4.3 Customer may cancel only with Whooshh's prior written consent and upon payment to Whooshh of reasonable cancellation charges determined by Whooshh, which may include direct costs incurred, allocation for overhead and administrative costs equals 15% of the cancelled value, and a reasonable profit on work performed.

5. Customer Responsibilities; Site Conditions

5.1 Customer will timely provide accurate information, access, permits, and cooperation reasonably required for Whooshh to perform. Delivery dates will be extended for delays caused by Customer or prerequisite work by others.

5.2 For onsite Services, Customer must furnish safe working conditions and, as applicable, labor, lifting, rigging, cranes, utilities, supplies, and an operating force necessary to install and operate the equipment, unless otherwise agreed in writing.

5.3 If Whooshh provides field advisory assistance (e.g., start-up support), Customer remains responsible for operation, supervision, and compliance with applicable safety and regulatory requirements.

6. Pricing; Taxes; Duties; Tariffs

6.1 Prices are based on market conditions at the time of quotation and may change without notice prior to Whooshh's written acceptance.

6.2 If supplier costs increase after acceptance for reasons beyond Whooshh's reasonable control (including material shortages, tariffs, duties, or changes to customs regulations), the actual increase may be passed through to Customer to the extent permitted by law and the Agreement.

6.3 Customer is responsible for all sales/use taxes, VAT, duties, tariffs, or other governmental charges for the products or services delivered by Whooshh.

6.4 Washington State sales tax: For Goods delivered or picked up within Washington, Whooshh will collect Washington State sales tax unless Customer provides a current and valid exemption/resale certificate in advance. Customer is responsible for notifying Whooshh at the time of order if an exemption applies.

7. Delivery; Routing; Risk of Loss

7.1 Unless otherwise agreed in writing, delivery of new equipment and parts is Ex Works Whooshh facility. Delivery of used equipment or equipment serviced by Whooshh is also F.O.B. Whooshh facility.

7.2 Risk of loss transfers to Customer when Goods are delivered to a common carrier or to Customer's agent.

7.3 Routing and selection of carrier are at Whooshh's sole discretion unless otherwise agreed in writing.

7.4 Delivery dates are estimates and not deadlines. Late delivery does not entitle Customer to damages or cancellation unless expressly agreed in writing.

8. Inspection; Acceptance

8.1 Customer will inspect Goods promptly and, in any event, within two (2) weeks after Delivery. Absent written notice of specific, well-founded nonconformities within that period, or if Goods are put into production/use, Goods are deemed accepted.

8.2 Immaterial defects that do not significantly impact performance do not prevent acceptance; Whooshh may remedy such defects within a reasonable time.

9. Payment Terms; Security for Payment; Set-off

9.1 Unless otherwise stated on the SOC:

- Orders under USD \$50,000: payment due upon order acceptance by Whooshh.
- Orders USD \$50,000 and above: 60% due upon order acceptance by Whooshh; 30% due upon release for assembly, submittal/drawing approval, or 30 days before ship date (whichever is earlier); remaining balance due as stated on the SOC.

9.2 Credit card payments may be subject to an additional convenience fee (currently 3.0%) unless prohibited by law. All credit card payments must be made in U.S. Dollars.

9.3 For approved credit accounts, invoices are Net 30 days from date of shipment unless otherwise stated. Past due amounts (more than ten (10) days late) accrue a carrying charge of 1.5% per month (or the maximum lawful rate, if less).

9.4 Customer will pay invoices without set-off or deduction unless Whooshh agrees in writing.

9.5 Adequate assurance: If Whooshh reasonably believes Customer may be unable to perform, Whooshh may demand adequate assurance (including advance payments) and may suspend performance until received. If assurance is not received within fifteen (15) days, Whooshh may terminate and recover termination charges sufficient to cover costs, allocable overhead, and a reasonable profit.

9.6 Security interest: Customer grants Whooshh a security interest in Goods sold or serviced under the Agreement and authorizes Whooshh to file financing statements to perfect such interest by providing additional information reasonably requested by Whooshh for such purpose.

9.7 Shop lien: For work performed in Whooshh's shop, Whooshh may retain possession of equipment until charges are paid and may enforce any applicable lien rights, including those under Washington law.

10. Title; Ownership; Software

10.1 Title to Goods transfers upon full payment, unless otherwise stated in the Agreement, subject to Whooshh's security interest. Risk of loss transfers as stated in Section 7.

10.2 Software is licensed, not sold. Any software delivered with Goods is provided solely for use in or with the Whooshh Products as described in applicable documentation and may be subject to third-party and open-source licenses.

10.3 Customer will not reverse engineer, decompile, disassemble, or create competing products or services from the Goods/Products or any portion thereof, except to the limited extent expressly permitted by applicable law that cannot be waived.

11. Returned Goods

11.1 Customer must obtain Whooshh's written authorization (RMA) before returning any Goods. Returned Goods for credit are subject to inspection.

11.2 New equipment returns must be in new condition and in original packaging. Returns are subject to a restocking charge of at least fifteen percent (15%) of the original invoice price, plus any refurbishment or handling costs.

11.3 Customer is responsible for all freight and transportation charges on returns. Obsolete items and special-order items are not returnable.

12. Warranty

12.1 Service warranty (shop/repair services): Whooshh warrants that Services and incidental Goods furnished by Whooshh will be free from defects in materials and workmanship and will conform to mutually agreed specifications. Whooshh will correct defects by re-performing defective Services and repairing or replacing nonconforming incidental Goods, at Whooshh's option. This warranty is limited to the scope of work performed by Whooshh and expires sixty (60) days from the date the equipment is received by Customer.

12.2 New equipment manufactured by others: Whooshh warrants only that such Goods conform to the description stated. The manufacturer's written warranty, if any, is assigned to Customer. Except for the manufacturer's warranty (if any), such Goods are provided AS IS.

12.3 Rental equipment: Whooshh warrants only that rental equipment, when delivered, is in good operating condition. If the equipment is not in good operating condition due to no fault of Customer and Customer promptly notifies Whooshh, Whooshh shall (at its option) either repair the equipment or provide replacement rental equipment, subject to availability. Transportation and incidental expenses will be borne by Customer.

12.4 Field advisory/onsite assistance: If Whooshh provides a field service engineer or technician to advise and assist Customer, such Services are advisory and Customer remains responsible for Customer-furnished labor, materials, foundations, and site conditions. Except as expressly stated in a Quote/SOC/SOW, such advisory Services are provided without warranties.

12.5 No warranty of fitness: Whooshh makes no warranty as to fitness of any Goods or Services for a particular purpose. Without limiting the foregoing, Whooshh makes no warranty regarding performance or durability of any equipment in salt or sea water applications.

12.6 EXCLUSIVE WARRANTY: THE WARRANTIES SET FORTH ABOVE ARE EXCLUSIVE AND ARE IN LIEU OF ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHER WARRANTY, EXPRESS OR IMPLIED.

12.7 Authority: No agent of Whooshh except the President and Executive Vice-President has authority to make express warranties or agree to remedies other than as provided in these Terms. No express warranty shall be enforceable against Whooshh unless in writing and signed by the President or Executive Vice-President.

12.8 No default equipment warranty unless specified: Except as expressly stated in Section 12 above or expressly specified in a Whooshh Quote or SOC, Whooshh provides no additional warranties of any kind. Any warranty for Whooshh-manufactured equipment must be expressly specified in writing and is otherwise excluded.

13. Procedure for Warranty Claims

13.1 Whooshh is not responsible for warranty work unless Customer delivers written notice of claim within the applicable warranty period and returns or makes available the affected Goods as reasonably requested by Whooshh. For service warranty claims, notice must be delivered within sixty (60) days of Delivery and Customer must promptly deliver affected Goods to Whooshh, freight prepaid, unless Whooshh agrees otherwise in writing.

14. Limitations of Liability

14.1 Repair/replacement or re-performance as provided in Section 12 is Customer's exclusive remedy and constitutes fulfillment of Whooshh's liability for defects or nonconformities.

14.2 To the maximum extent permitted by law, Whooshh's aggregate liability for any claim arising out of or related to an Agreement—whether in contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise—will not exceed the price paid (or payable) under the Agreement for the specific Goods or Services giving rise to the claim.

14.3 IN NO EVENT SHALL WHOOSHH BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT OR SERVICES, DOWNTIME COSTS, OR CLAIMS FROM CUSTOMER'S CUSTOMERS.

14.4 If Customer furnishes Whooshh's Goods or Services to a third party, Customer shall obtain from such third party provisions affording Whooshh and its suppliers protections consistent with Sections 14.2 and 14.3.

15. Safeguards, Environmental, Data

15.1 Hazardous Materials: Hazardous materials shall be removed from all equipment entering Whooshh's premises. Any disposal costs shall be borne by Customer unless specifically included in a Quote.

15.3 Compliance and Environmental: Customer is responsible for site-specific environmental permits and regulatory compliance unless expressly stated in a Whooshh quote or Statement of Work. Whooshh cannot guarantee regulatory approval for any site.

15.2 Data and Telemetry: Whooshh may collect and use fish images and operational data from the Products to provide services, support, safety improvements, and product enhancements. Whooshh will use such data in accordance with Whooshh's Privacy Policy and may use de-identified or aggregated data for improved AI learnings, analytics and other product or service purposes.

16. Force Majeure; Excusable Delays

16.1 Whooshh shall not be liable for delay due to causes beyond its reasonable control, including acts of God; acts of Customer; prerequisite work by others; acts of civil or military authority; government priorities; fires; strikes or labor disturbances; floods; epidemics; war; riot; delays in transportation or shortages; inability to obtain suitable labor, materials, or facilities; or additional repairs not reasonably foreseen.

16.2 In the event of such delay, the time of performance shall be extended for a period equal to the time lost. If delayed by Customer or prerequisite work by others, Whooshh is entitled to an equitable price adjustment in addition to time extension.

17. Confidentiality

17.1 Each Party will use reasonable care to protect the other Party's non-public Confidential Information disclosed in connection with an Agreement and will use it only for performance of the Agreement. Confidentiality obligations do not apply to information that becomes publicly available without breach, is independently developed, or is lawfully obtained from a third party.

17.2 Each Party will ensure that its employees and contractors with access to Confidential Information are bound by confidentiality obligations at least as protective as this Section.

18. Suspension; Termination

18.1 Whooshh may suspend performance for nonpayment or failure to provide required information, access, or assurances.

18.2 Whooshh may terminate an Agreement immediately upon written notice if Customer becomes insolvent, makes an assignment for the benefit of creditors, files or has filed against it a bankruptcy petition, ceases business, or materially breaches and fails to cure within thirty (30) days after written notice (or within a shorter cure period if required to prevent imminent harm).

18.3 Upon termination, all unpaid amounts become immediately due. Customer will pay for work performed, Goods committed, and reasonable termination charges as described in Section 4.3.

19. Dispute Resolution; Arbitration; Governing Law

19.1 Governing law: These Terms and all Agreements are governed by the laws of the State of Washington, USA, without regard to conflict-of-law principles.

19.2 Good-faith negotiations: The Parties will attempt in good faith to resolve any dispute arising out of or relating to an Agreement through executive-level negotiations within fifteen (15) days after written notice of dispute.

19.3 Binding arbitration: Except for claims eligible for small-claims court and claims for injunctive or equitable relief to protect intellectual property, Confidential Information, or to enforce security interests, any dispute, claim, or controversy arising out of or relating to an Agreement shall be resolved by binding arbitration administered by the American Arbitration Association (AAA) under its Commercial Arbitration Rules. The arbitration shall be conducted by one arbitrator, in Seattle, Washington, in English. Judgment on the award may be entered in any court of competent jurisdiction.

19.4 Interim relief: The arbitrator may award any relief available under applicable law, including injunctive relief. A Party may also seek temporary or preliminary injunctive relief in a court of competent jurisdiction in King County, Washington, to preserve the status quo pending arbitration.

19.5 Class-action waiver: To the fullest extent permitted by law, the Parties agree that any arbitration shall be conducted on an individual basis and not in a class, collective, or representative action.

19.6 Fees and costs: The arbitrator may award the prevailing Party its reasonable attorneys' fees and costs where permitted by law or where necessary to enforce payment obligations. Customer will pay Whooshh's reasonable attorneys' fees and costs of collection, including for collection costs of unpaid amounts invoiced and past due.,

19.7 Jury trial waiver: TO THE EXTENT ANY DISPUTE IS LITIGATED IN COURT, EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL.

20. Miscellaneous

20.1 Entire agreement; amendment: The Agreement (including the Quote/SOC, SOW (if any), and these Terms) contains the complete agreement and supersedes prior discussions. Any modification, waiver, or amendment must be in writing signed by Whooshh.

20.2 Severability: If any provision is held invalid or unenforceable, the remainder remains in effect.

20.3 Assignment: Customer may not assign an Agreement without Whooshh's prior written consent. Whooshh may assign to an affiliate or successor.

20.4 Notices: Notices must be in writing and delivered by personal delivery, recognized courier, or email to the addresses specified in the Agreement.

20.5 No delay or failure by Whooshh to enforce any right is a waiver of that right.

Acknowledgement

By placing an order with Whooshh or accepting delivery of Goods or Services, Customer acknowledges and agrees to these Terms and Conditions of Sale.