



NOTE FOR RESELLER:

The following Terms and Conditions ("Terms" or "Agreement") govern all use of RapidScreen ("Products(s)"). Any prospective purchaser ("End Customer" or "Customer") of RapidScreen MUST be made aware that, upon submitting any purchase order form, he or she acknowledges receipt, review, and acceptance of said Terms. Please contact spinTouch directly if you have any questions or if prospective purchasers require further clarification.

The following Notice Language MUST be included in any form that you accept from an End Customer in order to begin processing a purchase order by said End Customer. In addition to the **Terms and Conditions; Waiver of Warranty; Limited Warranty** language, Reseller MUST also include one of the two subsequent options in order to provide a prospective purchaser with full access to said Terms:

TERMS AND CONDITIONS; WAIVER OF WARRANTY

I ACKNOWLEDGE THAT, BY SUBMITTING OUR ORDER, I HAVE REVIEWED, AGREE TO, AND ACCEPT THE TERMS AND CONDITIONS, INCLUDING WAIVER OF WARRANTIES, THAT GOVERN MY PURCHASE AND USE OF RAPIDSCREEN.

The Terms and Conditions that govern your use of RapidScreen are attached below and marked as Exhibit A. They can also be accessed online here: https://spintouch.com/product/rapidscreen/support/terms_conditions.pdf

One (1) Year Limited Warranty

https://spintouch.com/product/rapidscreen/support/rapidscreen_warranty.pdf



EXHIBIT A

TERMS AND CONDITIONS FOR USE OF RAPIDSCREEN

The following set forth the Terms and Conditions that govern your purchase and use of RapidScreen ("Product(s)"). RapidScreen is provided by spinTouch, a California corporation ("spinTouch," "we," "us," or "our"). These Terms and Conditions ("Terms" or "Agreement") below are set at the sole discretion of spinTouch and govern and regulate your ("you," "your," or "Customer") use of RapidScreen. In submitting your Purchase Order for Products, you acknowledge reviewing these terms, approving and accepting them.

1. Purchase Order; Delivery and Risk of Loss; Acceptance; And Late Payment

By submitting your Order, you represent and assert that you are the authorized individual within your organization to do so. Due to the nature of the product and availability, all orders are non-cancellable, non-refundable, and/or non-returnable.

Delivery will be fulfilled by a common carrier chosen by spinTouch unless Customer makes a special request. The Risk of Loss shall pass to Customer at the moment Products are placed in the possession of said common carrier. spinTouch will notify Customer of shipment and make all reasonable arrangements for delivery to Customer's chosen location.

Products delivered to customer pursuant to a Purchase Order shall be deemed accepted by said customer unless customer notifies spinTouch or Reseller of non-conforming Products and returns such non-conforming Products within five (5) calendar days of Product delivery date. There is no right to inspect goods prior to full payment by Customer. Sales of accepted Products as provided herein are final, and may not be returned for refund, exchange, or credit to Customer. spinTouch or Reseller have an absolute right to cure, within 30 days of notice of nonconformity, any Products rejected by Customer.

With respect to any unpaid amount of any invoice due that is not paid in full by the due date, a simple interest rate of 4% shall be assessed per month, on the outstanding balance, payable from the invoice due date, shall be due. In addition, you shall indemnify spinTouch or the Reseller for its costs, including reasonable attorneys' fees and disbursements, incurred to collect any unpaid amount. Payments may not be withheld under any circumstances.

2. Intellectual Property Rights and Limited License

All Intellectual Property Rights in or related to the Products and related documentation, and any related design and manufacturing, as well as any modification, adaptation or derivation thereof, are and will remain the exclusive property of spinTouch and its licensors. Customer hereby irrevocably agrees not to assert against spinTouch or its direct or indirect customers, assignees or sub-licensees, any claim of Intellectual Property Rights relating to the Products and/or the related documentation.

spinTouch extends to each Customer a limited, non-exclusive, royalty-free license to use its corporate logo and other representations for the purposes as envisioned by this Agreement. Customer may not use corporate trademarks or logos in any manner falling outside of this Agreement. This latter provision includes, but is not limited to, conduct that is directly disparaging of spinTouch and Products or where the Customer's actions independent of spinTouch and Products undermine or diminish spinTouch's goodwill or public standing. With respect to Customer's use of Products, Customer agrees to:

- I. Comply with and abide by all applicable laws and regulations;
- ii. Not infringe upon spinTouch's intellectual property rights;
- iii. Will not disparage either spinTouch or the Product(s) to any third-parties (see paragraph 14, *infra*).

By accepting these terms and conditions, you expressly grant spinTouch and/or reseller a limited, worldwide, non-exclusive, and royalty-free license to use for its own purposes your logo and/or company name for the production of, inter alia, marketing materials and case studies. See non-disparagement clause, paragraph 14, *infra*. Customer retains the option to rescind aforementioned license rights to their logo and/or name, by sending an email to spinTouch within 7 days from the invoice date exercising their option to opt-out from this specific logo license provision.

3. DISCLAIMER OF ALL WARRANTIES

RAPIDSCREEN IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLICIT. SPINTOUCH AND RESELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, SECURITY OR ACCURACY. TO THE FULL EXTENT PERMISSIBLE BY LAW, SPINTOUCH AND RESELLER DISCLAIM ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4. ONE YEAR LIMITED WARRANTY

spinTouch warrants the Product against defects in materials and workmanship under normal use for a period of ONE (1) YEAR from the date of purchase by the original end-user purchaser ("Warranty Period"). If a hardware defect arises and a valid claim is received within the Warranty Period, at its discretion and to the extent permitted by law, spinTouch will either: (1) Repair the hardware defect at no charge, using new or parts equivalent to new in performance and reliability, or (2) Exchange the product with a product that is new or equivalent to new in performance and reliability and is at least functionally equivalent to the original product.

The Limited Warranty can be found here:

https://spintouch.com/product/rapidscreen/support/rapidscreen_warranty.pdf

5. Indemnity and Limitation of Liability

BY AGREEING TO THESE TERMS AND CONDITIONS, YOU AGREE TO INDEMNIFY AND HOLD SPINTOUCH AND ITS OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, EMPLOYEES, AND RESELLERS HARMLESS AS TO ALL CLAIMS AND/OR DEMANDS ARISING FROM YOUR USAGE OF RAPIDSCREEN.

YOU EXPRESSLY AGREE THAT SPINTOUCH, RESELLER AND THEIR THIRD-PARTY SUPPLIERS, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING,

BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES RESULTING FROM USE OF RAPIDSCREEN.

SPINTOUCH AND RESELLER'S MAXIMUM LIABILITY UNDER THESE TERMS AND CONDITIONS IS LIMITED TO THE AMOUNT PAID BY CUSTOMER TO SPINTOUCH OR RESELLER FOR THE PURCHASE OF PRODUCTS.

6. Not a Medical Device

Referencing and reiterating the waiver of warranties outlined above, you purchase Product(s) on an "as is" basis and with the full knowledge that said Product(s) are not for use in medical settings or purposes.

Accordingly, RapidScreen is not a medical device and should not be used for purposes of diagnosis or treatment of any disease, viral infection, or general medical condition. The only function of this device is to determine an individual's body temperature, indicating a likelihood of a fever, to a certain degree of accuracy. To that point, in no way should this device be considered 100% accurate in determining an individual's actual body temperature as there are a multitude of variables that can offset the reading. These variables include, but are not limited to: environmental factors, sunlight, exposure to high/low temperature, ambient lighting, medications, measuring distance, head alignment/position, skintone, lotion, makeup, sunscreen, sunburn, wet skin, alcohol consumption, exercise, misuse, user error, incorrect settings, damage, and/or hardware/software malfunctions.

Elevated body temperature in the context of use should be confirmed with secondary evaluation methods that are approved for use in medical settings and approved by all relevant authorities (e.g., an NCIT or clinical grade contact thermometer). Combining their experience, education, and factoring in the use environment for the device, appropriate medical experts should determine the significance of any fever or elevated temperature based on the skin telethermographic temperature measurement. Visible thermal patterns are only intended for locating the points from which to extract the thermal measurement.

Under no circumstances shall you make any statement suggesting that Product(s) can operate as medical devices for the purposes of diagnosing or treating any condition, nor are you allowed to foster any direct or indirect perception that the Products may be used in patient care or in such a context.

7. Data and Information Storage; Indemnification

RapidScreen, as provided to you by spinTouch, is not enabled by spinTouch or Reseller to collect and store any personally identifying information either within the hardware itself or in any cloud-based platform provided by spinTouch. You hereby acknowledge that you take delivery of Products without said features. If you decide to use RapidScreen to associate any personally identifiable information with individuals including, but not limited to temperature, whether through software included but not enabled on the Product or through third-party software, you do so at your own risk and accept all liability risks associated with such data collection and storage.

Accordingly, in the event you enable Product(s) to collect, store, and associate personally identifying information with individuals, you are assuming all liability for the secure storage and management of said data under all relevant federal, state, and local regulatory regimes including, but not limited to, the Health Insurance Portability and Accountability Act of 1996.

As such: in the event spinTouch or Reseller is named as a defendant due to your alleged breach of any duty or violation of any legal requirement, statutory or otherwise, with respect to failures to safeguard, account for, or properly maintain personally identifiable and protected information, as defined by any governing legal regime, you

agree to indemnify and hold harmless spinTouch, its third-party suppliers, officers, employees, agents, partners, licensors, and Reseller. In such circumstances, you shall undertake financial responsibility for all legal defenses and shall vigorously defend aforementioned parties. Moreover, you shall be responsible for any and all adverse judgments in that regard.

8. Binding Arbitration

You agree that all claims and disputes arising under or relating to use of Products are to be settled by binding arbitration in the County of Orange in the State of California. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration shall be conducted by an arbitrator experienced in terms and conditions for the use of similar products and shall include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction.

YOU AGREE THAT THE ARBITRATOR SHALL ADMINISTER AND CONDUCT ANY ARBITRATION IN ACCORDANCE WITH CALIFORNIA LAW, INCLUDING THE CALIFORNIA CODE OF CIVIL PROCEDURE AND THE CALIFORNIA EVIDENCE CODE, AND THAT THE ARBITRATOR SHALL APPLY SUBSTANTIVE AND PROCEDURAL CALIFORNIA LAW TO ANY DISPUTE OR CLAIM, WITHOUT REFERENCE TO RULES OF CONFLICT OF LAW.

ARBITRATION SHALL BE THE SOLE, EXCLUSIVE, AND FINAL REMEDY FOR ANY DISPUTE OR CLAIM TO ARISE FROM YOUR USE OF PRODUCTS. ACCORDINGLY, EXCEPT AS PROVIDED FOR BY THIS AGREEMENT, NEITHER YOU NOR SPINTOUCH WILL BE PERMITTED TO PURSUE COURT ACTION REGARDING CLAIMS THAT ARE SUBJECT TO ARBITRATION.

Notwithstanding the foregoing, in order to prevent irreparable harm, both you and spinTouch has the right to pursue injunctive relief in the state and federal courts located in Orange County, California, and the parties agree to the exclusive jurisdiction and venue of such courts for that purpose.

11. Attorney's Fees

Under California Civil Code Section 1717, and upon the conclusion of any civil action brought by either party under the contract, the Court shall award reasonable attorney's fees and other costs to the prevailing party. The prevailing party shall be defined as the party who recovered greater relief in any action brought under this Agreement in the determination of the Court.

9. Entire Terms

These Terms constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes and cancels all prior and contemporaneous agreements, claims, representations, and understandings of the parties, whether by spinTouch or an authorized spinTouch reseller, in connection with the subject matter hereof, written, oral, or otherwise.

10. Applicable Law

This Agreement will be governed by the laws of the state of California, without reference to conflict of laws principles. The sole jurisdiction and venue for actions related to the use of Products will be the Superior Court in the County of Orange, California. You consent to the jurisdiction of such courts with respect to any actions arising from your use of Products.

11. Interpretation

The provisions contained within these Terms will be interpreted according to the laws of the State of California. The section and paragraph headings in these Terms are for convenience only and shall not affect their interpretation.

12. Severability

If any provision of these Terms shall be deemed unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.

13. No Waiver

spinTouch will not be considered to have waived any of its rights or remedies described in these Terms unless the waiver is in writing and signed by the appropriate corporate representative or agent. No delay or omission by spinTouch in exercising its rights or remedies will impair or be construed as a waiver.

14. Non-Disparagement Clause

Neither party shall, at any time during the course of this contractual relationship or after, make statements or representations, or otherwise communicate, directly or indirectly, in writing, orally or otherwise, or take any action which may, directly or indirectly, disparage or be damaging to the other party (including any of either party's subsidiaries, other affiliates, officers, directors, employees, partners or stockholders); provided that nothing in this paragraph shall preclude either party from making truthful statements or disclosures that are required by applicable law, regulation or legal process.

I ACKNOWLEDGE THAT, BY SUBMITTING MY SALES/PURCHASE ORDER AND/OR PAYING INVOICE, I HAVE REVIEWED, AGREE TO, AND ACCEPT THE TERMS AND CONDITIONS THAT CONDITION MY PURCHASE AND USE OF RAPIDSCREEN.