

## Terms of Sale

Last updated: 12/06/2023

PLEASE READ THESE TERMS OF SALE VERY CAREFULLY

THESE TERMS OF SALE ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS IN ANY FORM DELIVERED BY YOU ("CUSTOMER") ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO THEM AND REJECTION OF THEM IS HEREBY GIVEN.

BY ACCEPTING DELIVERY OF THE PRODUCTS, CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS UNLESS CUSTOMER AND SELLER HAVE SIGNED A SEPARATE AGREEMENT, IN WHICH CASE THE SEPARATE AGREEMENT WILL GOVERN.

ANY GENERAL DESCRIPTION OF THE TYPES OF PRODUCTS AND RESULTS THEREOF POSTED ON THE WEBSITE DO NOT CONSTITUTE PART OF THE AGREEMENT BETWEEN SELLER AND CUSTOMER.

### Important Information About These Terms and Conditions

These Terms of Sale constitute a binding contract between Customer and Seller and are referred to herein as either "Terms" or this "Agreement". Customer accepts these Terms by making a purchase from or placing an order with Seller or shopping on Seller's Website (the "Site") or otherwise requesting products (the "Products") (as this and all capitalized terms are defined herein). These Terms are subject to change without prior notice, except that the Terms posted on the Site at the time Customer places an order will govern the order in question, unless otherwise agreed in writing by Seller and Customer.

Customer consents to receiving electronic records, which may be provided via a Web browser or e-mail application connected to the Internet; individual consumers may withdraw consent to receiving electronic records or have the record provided in non-electronic form by contacting Seller. Electronic signatures (or copies of signatures sent via electronic means) are the equivalent of written and signed documents.

Customer may issue a purchase order for administrative purposes only. Additional or different terms and conditions contained in any such purchase order will be null and void.

### Overview:

Nuspire has been authorized by Subaru Corporation to sell and distribute the Subaru Select Monitor (SSM4) diagnostics software to Aftermarket businesses located within North America (USA and Canada).

The Subaru Select Monitor (SSM) diagnostics software is sold as a 12-month subscription service.

\*\*\* Please note that Nuspire is a distributor to the Aftermarket for the SSM software on behalf of Subaru Corporation. As such, there is no ongoing end-user vehicle repair support subsequent to providing you with the Product Password \*\*\*

Quarterly, Subaru releases a new version of the diagnostics code.

Subsequent to receipt of order confirmation, the SSM software (as well as SSM software updates thereafter) will be provided via an email containing a secured link through which the latest version of the SSM software will be downloaded.

Here are the instructions to download the software:

- Download the SSM software files to the laptop or PC to be used with the DENSO device to an easily remembered location.
- Once the file download is complete, use the launcher.exe file to install the software for use, connect the DENSO box to the laptop or PC using the USB cable provided.
- At this point a unique Product ID number will appear in a dialogue window. Record the Product ID number and the Version Number somewhere safe.
- At the same time a prompt for “Product Password” will appear.
- Prior to receipt of the Product Password, Customer will be able to continue use of the DENSO device and SSM software by selecting the “Skip” button for 21 days following the first use of the DENSO device and SSM software allowing for full functionality of the device and software prior to receipt of the Product Password.
- Email the unique Product ID and Version Number to [requests@subarutech.net](mailto:requests@subarutech.net). The Product Password will subsequently be provided back via email within 3 business days.
- After receipt of the Product Password, enter it upon next use of the DENSO device and SSM software. This step will complete registration of the DENSO device, SSM software and laptop.

Ordering & Payment:

Visit [www.subarutech.net](http://www.subarutech.net) to order your SSM software subscriptions. Checkout on the website can be completed with the use of a major credit card by providing business or other contact information and shipping address. Upon the completion of a successful transaction, an order confirmation including a detailed receipt of purchase will be provided via email. The SSM4 software and activation codes are nonreturnable and non-refundable regardless of circumstance.

Duties and taxes for orders shipping outside the U.S. are not included in the amount you will be charged by SubaruTech.net. Duties and taxes will be due upon receipt to your local customs authority.

Orders are not binding upon Seller until accepted by Seller. Terms of payment are within Seller's sole discretion. Customer agrees to pay the total purchase price for the Products. Customer will pay for and will indemnify and hold Seller and its Affiliates harmless from, any applicable sales, use, transaction, excise or similar taxes and any federal, state or local fees or charges, imposed on the Products. Customer must claim any exemption from such taxes, fees, or charges at the time of purchase and provide Seller with the necessary supporting documentation. In the event of a payment default, Customer will be responsible for all of Seller's costs of collection, including, but not limited to, court costs, filing fees and attorneys' fees. In addition, if payments are not received as described above, Seller reserves the right to withhold Products until payment is received.

Title: Risk of Loss

Title to Products and risk of loss or damage during shipment pass from Seller to Customer upon delivery to the specified destination (DAP). Notwithstanding the foregoing, title to software will remain with the applicable licensor(s), and Customer's rights therein are contained in the license agreement between such licensor(s) and Customer.

#### Pricing Information; Availability Disclaimer

Seller reserves the right to adjust pricing, Products offerings for reasons including, but not limited to, changing market conditions, Product discontinuation, Product unavailability, manufacturer price changes, supplier price changes and errors in advertisements. All orders are subject to Product availability. Therefore, Seller cannot guarantee that it will be able to fulfill Customer's orders.

#### Warranties

Customer understands that Seller is not the manufacturer of the Products purchased by Customer hereunder and the only warranties offered are those of the manufacturer, not Seller or its Affiliates. In purchasing the Products, Customer is relying on the manufacturer's specifications only and is not relying on any statements, specifications, photographs, or other illustrations representing the Products that may be provided by Seller or its Affiliates. SELLER AND ITS AFFILIATES HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES EITHER EXPRESS OR IMPLIED, RELATED TO PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF TITLE, ACCURACY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY MANUFACTURER'S WARRANTY. Customer expressly waives any claim that it may have against Seller, or its Affiliates based on any product liability or infringement or alleged infringement of any patent, copyright, trade secret or other intellectual property rights (each a "Claim") with respect to any Product and also waives any right to indemnification from Seller or its Affiliates against any such Claim made against Customer by a third party. Customer acknowledges that no employee of Seller or its Affiliates is authorized to make any representation or warranty on behalf of Seller or any of its Affiliates that is not in this Agreement.

#### Limitation of Liability

UNDER NO CIRCUMSTANCES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH HEREIN, WILL SELLER, ITS AFFILIATES OR ITS OR THEIR SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: (A) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, BUSINESS, REVENUES OR SAVINGS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES OR IF SUCH DAMAGES ARE OTHERWISE FORESEEABLE, IN EACH CASE, WHETHER A CLAIM FOR ANY SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY; (B) ANY CLAIMS, DEMANDS OR ACTIONS AGAINST CUSTOMER BY ANY THIRD PARTY; (C) ANY LOSS OR CLAIM ARISING OUT OF OR IN CONNECTION WITH CUSTOMER'S IMPLEMENTATION OF ANY CONCLUSIONS OR RECOMMENDATIONS BY SELLER OR ITS AFFILIATES BASED ON, RESULTING FROM, ARISING OUT OF OR OTHERWISE RELATED TO THE PRODUCTS; OR (D) ANY UNAVAILABILITY OF THE PRODUCT FOR USE OR ANY LOST, DAMAGED OR CORRUPTED DATA OR SOFTWARE. IN THE EVENT OF ANY LIABILITY INCURRED BY SELLER OR ANY OF ITS AFFILIATES, THE ENTIRE LIABILITY OF SELLER AND ITS AFFILIATES FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL

NOT EXCEED THE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM.

#### Force Majeure

Neither party shall be liable for any default or delay in performance of its obligations hereunder (excluding any obligation to make timely payments as provided hereunder) to the extent the same is attributable to events beyond the reasonable control of such party, including, without limitation, acts of God, acts of public enemies, civil commotions, embargoes, epidemics, quarantine restrictions, floods, fires, earthquakes, unusually severe weather conditions, strikes, labor disputes, accidents and governmental actions.

#### Governing Law

THESE TERMS AND ANY SALE OF PRODUCTS HEREUNDER WILL BE GOVERNED BY THE LAWS OF THE STATE OF MICHIGAN, WITHOUT REGARD TO CONFLICTS OF LAWS RULES. ANY ARBITRATION, ENFORCEMENT OF AN ARBITRATION OR LITIGATION WILL BE BROUGHT EXCLUSIVELY IN OAKLAND COUNTY, MICHIGAN, AND CUSTOMER CONSENTS TO THE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED THEREIN, SUBMITS TO THE JURISDICTION THEREOF AND WAIVES THE RIGHT TO CHANGE VENUE. CUSTOMER FURTHER CONSENTS TO THE EXERCISE OF PERSONAL JURISDICTION BY ANY SUCH COURT WITH RESPECT TO ANY SUCH PROCEEDING. Except in the case of nonpayment, neither party may institute any action in any form arising out of these Terms more than one (1) year after the cause of action has arisen. The rights and remedies provided Seller under these Terms are cumulative, are in addition to, and do not limit or prejudice any other right or remedy available at law or in equity.

#### Miscellaneous

Seller may assign or subcontract all or any portion of its rights or obligations with respect to the sale of Products or assign the right to receive payments, without Customer's consent. Customer may not assign these Terms, or any of its rights or obligations herein without the prior written consent of Seller. Subject to the restrictions in assignment contained herein, these Terms will be binding on and inure to the benefit of the parties hereto and their successors and assigns. No provision of this Agreement will be deemed waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. The relationship between Seller and Customer is that of independent contractors and not that of employer/employee, partnership, or joint venture. If any term or condition of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the same shall not affect the other terms or conditions hereof or thereof or the whole of this Agreement. Notices provided under this Agreement will be given in writing and deemed received upon the earlier of actual receipt or three (3) days after mailing if mailed postage prepaid by regular mail or airmail or one (1) day after such notice is sent by courier or facsimile transmission. Any delay or failure by either party to exercise any right or remedy will not constitute a waiver of that party to thereafter enforce such rights.

#### Contact Us:

To discuss any aspect of this document, call 248-896-6150 or send an email to [info@subarutech.net](mailto:info@subarutech.net).