

TERMS AND CONDITIONS OF SALE

THE SALE OF PRODUCTS AND SERVICES ("PRODUCTS") BY THE SELLER AND ITS DIVISIONS AND SUBSIDIARIES ("SELLER") ARE SUBJECT TO THESE TERMS AND CONDITIONS (THE "AGREEMENT") REGARDLESS OF OTHER OR ADDITIONAL TERMS OR CONDITIONS THAT CONFLICT OR CONTRADICT THIS AGREEMENT IN ANY PURCHASE ORDER, DOCUMENT, OR OTHER COMMUNICATION ("ORDER"). PREPRINTED TERMS AND CONDITIONS ON ANY CUSTOMER ("BUYER") DOCUMENT (E.G., PURCHASE ORDERS OR CONFIRMATIONS) AND/OR SELLER'S FAILURE TO OBJECT TO CONFLICTING OR ADDITIONAL TERMS WILL NOT CHANGE OR ADD TO THE TERMS OF THIS AGREEMENT.

1. ORDERS. All Orders are subject to acceptance by Seller. Seller reserves the right to allocate the sale of Products among its Buyers. Orders for special, custom, value-added and Products specifically identified by Seller as non-standard or customized are non-cancelable and non-returnable ("NCNR"). The Buyer may not cancel or reschedule Orders for standard Products without Seller's consent, which shall not be unreasonably withheld. Seller shall transfer and deliver to Buyer, and Buyer shall accept the goods set forth on the Quote attached hereto and hereby made a part hereof.

2. PRICES. Seller's quoted prices apply for 30 days or as otherwise stated in the attached Quote.

3. DELIVERY AND TITLE. Title and risk of loss pass to Buyer upon delivery of the Products to the agreed upon destination(s) as set forth in the attached Quote. Timing and location of delivery shall be the respective dates and places set forth in the Quote attached hereto and hereby made a part hereof.

4. TERMS OF PAYMENT. The specific Terms of Payment will be determined by Seller for each Buyer. Seller reserves the right to grant credit terms to Buyer. Upon signed acceptance of the attached Quote, Buyer agrees to the Terms of Payment included therein. Payment shall be made by certified bank check, wire transfer to Seller's account, an irrevocable Letter of Credit, or any other payment method agreed to by Buyer and Seller in accordance with the Quote attached hereto. On any past due invoice, Seller may charge interest from the payment due date to the date of payment (at 1 ½ % per month), plus reasonable attorney fees and collection costs. Seller may change the terms of Buyer's credit at any time. Seller may apply payments to any of Buyer's accounts in accordance with the Quote attached hereto.

5. ACCEPTANCE OF PRODUCTS AND PRODUCT RETURNS. Non-standard or customized products are not returnable. Buyer must notify Seller in writing of any damage, shortage, or other discrepancy to Products within 10 days after delivery. After the 10th day, Buyer is deemed to have accepted the Products and may not revoke acceptance. Seller will replace defective products or make reasonable accommodations with the Buyer at Seller's discretion.

6. EXPRESS WARRANTIES DISCLAIMED. Seller warrants that the goods are as described on the Quote attached hereto; BUT NO OTHER EXPRESS WARRANTY HAS BEEN OR IS MADE WITH RESPECT TO THE GOODS.

7. WARRANTIES OF MERCHANTABILITY DISCLAIMED. SELLER DOES NOT WARRANT, NOR SHALL ANY SUCH WARRANTY BE IMPLIED, THAT THE GOODS ARE OF MERCHANTABILITY QUALITY. BUYER AGREES THAT NO SUCH WARRANTIES OF MERCHANTABILITY ARE MADE PART OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES.

8. WARRANTIES AS TO FITNESS FOR BUYER'S PARTICULAR PURPOSE DISCLAIMED. BUYER DOES NOT KNOW, AND SELLER ACKNOWLEDGES BUYER HAS NOT IMPARTED ANY KNOWLEDGE TO SELLER BY WHICH SELLER WOULD HAVE REASON TO KNOW, ANY PARTICULAR PURPOSE FOR WHICH THE PRODUCTS ARE REQUIRED BY BUYER. BUYER IS NOT RELYING ON SELLER'S SKILL OR JUDGMENT TO SELECT OR FURNISH SUITABLE GOODS, AND NO IMPLIED WARRANTY THAT THE GOODS SHALL BE FIT FOR BUYER'S PARTICULAR PURPOSE IS MADE PART OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES.

9. LIMITATION OF LIABILITY. SELLER IS NOT LIABLE FOR AND BUYER IS NOT ENTITLED TO ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES; FOR EXAMPLE, LOSS OF PROFITS OR REVENUE, LOSS OF DATA, LOSS OF USE, REWORK, MANUFACTURING EXPENSE, INJURY TO REPUTATION, OR LOSS OF BUYERS. BUYER'S RECOVERY FROM SELLER FOR ANY DIRECT DAMAGES WILL NOT EXCEED THE PRICE OF THE PRODUCT AT ISSUE. BUYER WILL INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM ANY CLAIMS BASED ON: (i) SELLER'S COMPLIANCE WITH BUYER'S DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS, (ii) MODIFICATION OF ANY PRODUCTS BY ANYONE OTHER THAN SELLER, OR (iii) USE IN COMBINATION WITH OTHER PRODUCTS.

10. FORCES BEYOND SELLER'S CONTROL. Seller is not liable for failure to fulfill its obligations for any accepted Order or for delays in delivery due to causes beyond its reasonable control (for example: acts of God, acts of governments, political unrest, acts or omissions of the Buyer, man-made or natural disasters, epidemic or medical crises, excessive materials shortages, strikes, acts of terrorism, excessive delays in transportation, or inability to obtain labor or materials through all reasonable and legal sources).

11. USE OF PRODUCTS. Products are not authorized for use in critical safety or other applications where a failure may reasonably be expected to result in personal injury, loss of life, or catastrophic property damage. If Buyer uses or sells the Products for use in any such applications, Buyer acknowledges that such use or sale is at Buyer's sole risk. Buyer

will indemnify, defend and hold Seller and the Product manufacturer harmless from and against any and all liabilities and costs arising out of or in connection with such use or sale.

12. EXPORT/IMPORT. Buyer acknowledges that Seller will serve as Importer of Record and Consignee for all imported orders sold to Buyer on a Delivered-Duty Paid basis, and that Seller assumes all the rights and responsibilities as Importer. Buyer also acknowledges that for all orders sold to Buyer on an FOB-Foreign Port basis, Buyer is solely responsible for the arrangement and costs of all freight, insurance, Customs duties and fees, and for Customs entry of the goods. Buyer acknowledges that certain products sold by Seller and other related technology and documentation are subject to export control laws (i.e., EAR and ITAR), regulations and orders of the United States and the export or import control laws and regulations of other countries. Buyer agrees that it will not directly or indirectly export or divert any Products and other related technology and documentation to any third party or country where such export or transmission is restricted or prohibited. Buyer agrees it is responsible to obtain any license to export, re-export or import as may be required.

13. GENERAL.

i. This agreement shall be governed by the Uniform Commercial Code as adopted in the State of [], without giving effect to conflict of law principles. The United Nations Convention for the International Sale of Goods shall not apply.

ii. Buyer may not assign this Agreement without the prior written consent of Seller. Any of Seller or its affiliates may perform the obligations under this Agreement. This Agreement is binding on successors and assigns. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes, unless made in compliance with this paragraph.

iii. This Agreement can only be modified in writing signed by authorized representatives of both Seller and Buyer.

iv. This Agreement does not constitute and shall not be construed as constituting a partnership, employer/employee or principal/agent relationship nor joint venture between Seller and Buyer.

v. Statements or advice (technical or otherwise) if given without charge, are an accommodation to Buyer and Seller has no responsibility or liability for the content or use of such statements or advice.

vi. Seller's failure to object to any document, communication, or act of Buyer will not be deemed a waiver of any of these terms and conditions. No claim or right arising out of a breach of this Agreement may, in whole or in part, be discharged by a waiver or renunciation of the claim or right, unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

vii. No agent, employee, or representative of Seller has any authority to bind Seller to any affirmation, representation, or warranty concerning the goods sold under this agreement; and unless an affirmation, representation, or warranty made by an agent, employee, or representative is specifically included within this written agreement, it has not formed a part of the basis of this bargain and shall not in any way be enforceable.

viii. Any legal action or proceeding with respect to this Agreement may be brought in the courts of the State of [] or of the United States of America for the [enter State and District], and, by execution and delivery of this Agreement, Seller and Buyer hereby each accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. The parties hereto hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, that any of them may now or hereafter have to the bringing of any such action or proceeding in such respective jurisdictions.

ix. Each party to this Agreement agrees that any suit, action, or proceeding, whether claim or counterclaim, brought or instituted by either party hereto or any successor or assign of any party on or with respect to this Agreement, or which in any way relates, directly or indirectly, to any event, transaction, or occurrence arising out of or in any way connected with this Agreement or the dealings of the parties with respect thereto, shall be tried only by a court and not by a jury.

x. Definitions. Whenever a term, word or phrase defined in the Uniform Commercial Code is used in this agreement, the definition contained in the Uniform Commercial Code as adopted by the State of [] shall control.

xi. The unenforceability of any of these terms or conditions will not affect the remainder of the terms or conditions.

xii. Products, including software or other intellectual property, are subject to any applicable rights of third parties, such as patents, copyrights and/or user licenses.

xiii. This writing is a final expression of the parties' agreement and is a complete and exclusive statement of the terms of their agreement.

xiv. No course of prior dealings between the parties and no usage of trade shall be relevant to supplement or explain any term or provision of this Agreement.

xv. Acceptance of, or acquiescence in, a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement, even though the accepting or acquiescing party has knowledge of the nature of the performance and has had opportunity for objection.