



## STANDARD TERMS AND CONDITIONS OF SALE

**1. ACCEPTANCE:** These Standard Terms and Conditions of Sale (the "Terms") are applicable to and part of all documents related to the sale of Seller's products or services (collectively, "Sale Documents"), including without limitation, purchase orders, invoices, acknowledgements and shipping documents, and are the only terms and conditions applicable thereto except for provisions in the Sale Documents providing for prices, quantities, delivery schedules, and the description and specifications of the products. Seller hereby objects to and rejects any terms or conditions appearing on, incorporated by reference in or attached to any purchase documents submitted by Buyer. Buyer's acceptance of products or services shipped by Seller pursuant to Seller's Sale Documents shall constitute Buyer's acceptance of these Terms.

**2. PRICES, FEES, PAYMENT, ETC.:** Unless otherwise set forth in the Sale Documents, the price for the products or services shall be Seller's price in effect on the date of shipment. Material, energy or other surcharges may apply. Minimum order quantities, minimum order values and set up charges may apply. Quotations are valid for thirty (30) days. Expedited orders may be subject to premium charges. Prices are quoted exclusive of, and Buyer agrees to pay, any federal, state or local excise, sales, use, personal property or other tax, excepting only taxes based on Seller's income. Unless otherwise agreed in the Sale Documents, payment terms are net thirty (30) days from the date of shipment. Seller reserves the right to assess service charges of one and one-half percent (1½%) per month on overdue accounts. Seller reserves the right at any time to require full or partial payment in advance of shipment, based upon payment history, its assessment of Buyer's financial condition or other factors. In the event of non-payment, Buyer agrees to pay all costs of collection incurred by Seller, including expenses and reasonable attorneys' fees.

**3. DELIVERY, RISK OF LOSS, FORCE MAJEURE:** All shipments are F.O.B. Seller's plant unless otherwise provided in Seller's Sale Documents. Seller shall be entitled to select the means of transportation. Buyer agrees to pay all transportation charges incurred after the products are delivered to the carrier. If Buyer furnishes special transportation instructions (e.g., special handling, packaging, expedited shipping, etc.), all costs thereof shall be borne by Buyer. All costs of export (e.g., export duties, licenses, fees, etc.), if applicable, shall be borne by Buyer. All risk of loss or damage shall pass to Buyer when the products are delivered to the carrier at the point of shipping, and Buyer shall be solely responsible for filing any claims. Seller shall not be liable for any loss, damage, delay or default hereunder by reason of accident, fire, flood, weather conditions, acts of God, acts of Buyer, labor troubles, delay or default by suppliers, subcontractors or carriers, inability to secure materials, components, fuel or labor, acts of government or other similar or dissimilar causes beyond Seller's reasonable control.

**4. WAIVER:** All claims for failure of products shipped to conform to the item(s) or quantity ordered shall be waived unless presented to Seller in writing within fifteen (15) days after receipt of the shipment by Buyer. Waiver by Seller of a breach by Buyer of any of its obligations shall not be deemed a waiver of future compliance therewith, and such provisions, as well as all other provisions hereof, shall remain in full force and effect.

**5. WARRANTY, DISCLAIMER:** Please refer to our specific brochures for individual product warranties. Warranty does not cover in any circumstance, incidental or consequential damages, including, but not limited to, lost time, lost wages, inconvenience, loss of equipment use, cost of service work or transportation, related property damage, personal injury or consequential damages of any type or nature.

**6. LIMITATION OF LIABILITY:** IN NO CASE SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LIABILITY, DIRECT OR INDIRECT, FOR DAMAGE OR INJURY TO PERSON OR PROPERTY, LOSS OF SALES OR PROFIT OR INCREASED COST OR EXPENSE, WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY. IN ANY EVENT, SELLER'S MAXIMUM LIABILITY HEREUNDER, REGARDLESS OF THE LEGAL THEORY, SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCTS DELIVERED BY SELLER.

**7. REMEDIES:** Without waiving any other rights or remedies available to it hereunder, under applicable law or otherwise, Seller may, at its option, defer shipment or deliveries hereunder, or under or pursuant to any other contract with Buyer, until all past-due accounts of Buyer to Seller have been satisfied in full, and/or may cancel the unshipped balance of any order. If Buyer fails to make payment when due and Seller determines its obligations hereunder to be insecure, Buyer shall promptly return to Seller, on demand, all products

furnished to Buyer hereunder for which payment in full has not been made, and if Buyer fails to return such products, Seller may, to the extent permitted by law, with or without notice and with or without legal process, enter upon any premises where such products may be located and take possession of the same. Seller may then sell such products, with or without notice, at private or public sale at which Seller may purchase, and the proceeds of such sale, less expenses of retaking, repairing, holding and reselling, will be applied to the unpaid purchase price without release of any deficiency, which deficiency (if any) shall be promptly paid by Buyer. Any surplus above the expenses and unpaid balance shall be remitted by Seller to Buyer.

**8. PROPRIETARY RIGHTS:** Seller shall retain all rights to technical data and information, technical processes and business methods, whether patentable or not, arising out of or evolving as a result of Seller rendering engineering services to and designing systems and products for Buyer's use. Buyer agrees not to enforce against Seller or customers of Seller any patent rights, the scope of which includes a system, process or business method utilizing products or engineering services delivered hereunder by Seller, and which relates to an invention made by or for Buyer on a date subsequent to the date of Seller's first submission of a Sale Document to Buyer.

**9. HAZARDOUS MATERIALS:** Buyer acknowledges that certain products supplied by Seller, or components thereof, may be, or become, considered as hazardous materials under various laws and regulations. Buyer agrees to familiarize itself (without reliance on Seller except as to the accuracy of special safety information actually furnished by Seller), with any hazard of such materials and their applications and the containers in which such materials are shipped. Buyer agrees to inform and train its employees and its customers as to such hazards. Buyer agrees to hold Seller harmless against any claims by Buyer or its employees or customers based on allegations relating to any such hazards except where such claims are based on Seller's failure to meet written specifications or the inaccuracy of specific safety information actually furnished by Seller.

**10. OVER/UNDER SHIPMENTS, NO OBLIGATION TO STOCK PARTS:** Seller reserves the right to over or under ship any release by ten percent (10%) or less. Seller also reserves the right to discontinue or modify any line or type of product at any time without liability except to refund any sums already paid by Buyer for the undelivered portion of such products. SELLER SHALL HAVE NO OBLIGATION TO STOCK OR SUPPLY REPLACEMENTS OR PARTS FOR THE PRODUCTS IT SELLS.

**11. CANCELLATION:** Buyer shall be responsible for the payment of non-recoverable material costs and Seller's in-process value-added costs on all cancelled orders. An order may not be cancelled within thirty (30) days of the shipping date set forth in Seller's acknowledgment.

**12. GOVERNING LAW:** The agreement of which these Terms are a part shall be construed and enforced according to the domestic substantive laws of the state from which the products being sold to Buyer hereunder are to be delivered by Seller to the carrier for shipment to Buyer, without giving effect to any choice or conflict of laws provision or rule that would cause the application of the domestic substantive laws of any other state. If any provision of these Terms is declared unlawful or invalid, the remaining provisions shall nevertheless continue in full force and effect.

**13. ENTIRE AGREEMENT:** These Terms and the Sale Documents to which they relate constitute the sole and entire agreement between Seller and Buyer, and shall govern exclusively as to the sale and delivery of any products or services to Buyer. These Terms supersede any different, additional or inconsistent language, terms and/or conditions in Buyer's order or in any other communication between Seller and Buyer, notwithstanding any statement in Buyer's terms to the contrary. All prior communications, representations, negotiations and promises with respect to this sale are deemed to be merged herein. Any purported modification or revision of these Terms or any part hereof, or waiver of any breach thereof, whether written or oral, shall (except as provided in Section 4 above) be of no effect unless expressly agreed to in a writing signed by an authorized representative of each party. No course of dealing or usage of trade shall be applicable.

ALL COMMODITIES, TECHNOLOGY, OR SOFTWARE THAT ARE EXPORTED FROM THE UNITED STATES ARE IN ACCORDANCE WITH THE EXPORT ADMINISTRATION REGULATIONS. DIVERSION CONTRARY TO U.S. LAW PROHIBITED.