
Terms & Conditions of Sale

1. **Entire Contract.** Except as otherwise agreed in a written agreement signed by both parties, the terms and conditions set forth below hereof constitute the expression of all the terms and conditions of this agreement, and a complete and exclusive statement of the agreement between Buyer and Seller. All representations, promises, warranties or statements by any agent or employee of Seller that differ in any way from the terms and conditions hereof shall be given no effect or force. Any additional, contradictory or different terms contained in any initial or subsequent order or communication from Buyer pertaining to the Goods described on the face hereof are hereby objected to. All orders are subject to the approval of Seller at its offices in Perry, Ohio. No waiver or alteration of terms herein shall be binding unless in writing, signed by an executive officer of Seller.

2. **Prices.** All prices are F.O.B. Seller's plant, unless otherwise specifically set forth on the face side hereof. Prices stated are subject to change without notice in the event of: (i) alterations in specifications, quantities, designs, or delivery schedules; (ii) increases in the cost of fuel, power, materials, supplies, or labor; and/or (iii) foreign or domestic legislation enacted by any level of government, including tax legislation, that increase the cost of producing, warehousing, or selling the Goods purchased hereunder. No discount will be allowed unless specifically set forth on the face side hereof. Buyer agrees to pay a delinquency charge of 1.5% per month, or if such rate shall exceed the maximum rate allowed by applicable law, then a delinquency charge calculated at such maximum rate, on the outstanding balances not paid when due, from the dates such balances were due until payment with respect thereof is made in full. Until the purchase price and all other sums due pursuant hereto are paid in full, Seller shall retain, and Buyer hereby grants to Seller, a security interest in the materials described on the face hereof (herein sometimes referred to as "Goods") and in all proceeds of said Goods.

3. **WARRANTY.** Seller warrants that Goods manufactured by it will be free from defects in workmanship for one (1) year following the date of shipment. If any of the Goods are found by Seller to be defective, such Goods will, at Seller's option, be replaced or repaired at Seller's cost. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED. NO AFFIRMATION OF SELLER, BY WORDS OR ACTION, OTHER THAN AS SET FORTH IN THIS SECTION 3 SHALL CONSTITUTE A WARRANTY. GOODS THAT MAY BE SOLD BY SELLER BUT THAT ARE NOT MANUFACTURED BY SELLER ARE NOT WARRANTED BY SELLER, BUT ARE SOLD ONLY WITH THE WARRANTIES, IF ANY, MADE BY THE MANUFACTURERS THEREOF. SELLER'S WARRANTY DOES NOT APPLY TO ANY GOODS THAT HAVE BEEN SUBJECTED TO MISUSE, MISHANDLING, MISAPPLICATION, NEGLIGENCE (INCLUDING BUT NOT LIMITED TO IMPROPER MAINTENANCE), ACCIDENT, IMPROPER INSTALLATION, MODIFICATION (INCLUDING BUT NOT LIMITED TO THE USE OF UNAUTHORIZED PARTS OR ATTACHMENTS), OR ADJUSTMENT OR REPAIR PERFORMED BY ANYONE OTHER THAN SELLER OR ONE OF SELLER'S AUTHORIZED AGENTS. ANY WARRANTY CLAIM BY BUYER WITH REFERENCE TO THE GOODS SOLD HEREUNDER SHALL BE DEEMED WAIVED BY THE BUYER UNLESS SUBMITTED IN WRITING TO SELLER WITHIN THE EARLIER OF: (I) THIRTY (30) DAYS FOLLOWING THE DATE BUYER DISCOVERS, OR BY REASONABLE INSPECTION SHOULD HAVE DISCOVERED, ANY BREACH OF THE FOREGOING WARRANTY; OR (II) THIRTEEN (13) MONTHS FOLLOWING THE DATE OF SHIPMENT.

4. **LIMITATIONS OF LIABILITY.** SELLER'S LIABILITY (WHETHER UNDER THE THEORIES OF TORT, BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, OR STRICT LIABILITY) FOR ITS GOODS, SHALL BE LIMITED TO REPAIRING OR REPLACING PARTS FOUND BY SELLER TO BE DEFECTIVE, OR AT SELLER'S OPTION, TO REFUNDING THE PURCHASE PRICE OF SUCH GOODS OR PARTS, THEREOF. AT SELLER'S REQUEST, BUYER WILL SEND, AT BUYER'S SOLE EXPENSE, ANY ALLEGEDLY DEFECTIVE PARTS TO THE PLANT OF SELLER WHICH MANUFACTURED THEM.

5. **DISCLAIMER OF CONSEQUENTIAL DAMAGES.** IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION BREACH OF ANY OBLIGATION IMPOSED ON SELLER HEREUNDER OR IN CONNECTION HERewith. CONSEQUENTIAL DAMAGES FOR PURPOSES HEREOF SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF USE, INCOME OR PROFIT, OR LOSSES SUSTAINED AS THE RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSON, OR LOSS OF OR DAMAGE TO PROPERTY (INCLUDING WITHOUT LIMITATION PROPERTY HANDLED OR PROCESSED BY THE USE OF THE GOODS). BUYER SHALL INDEMNIFY SELLER AGAINST ALL LIABILITY, COST OR EXPENSE WHICH MAY BE SUSTAINED BY SELLER ON ACCOUNT OF ANY SUCH LOSS, DAMAGE OR INJURY.

6. **Acceptance & Transportation.** Upon Buyer's receipt of shipment, Buyer shall immediately inspect the Goods. Unless Buyer provides Seller with written notice of any claim for shortages of or defects in the Goods within forty-eight (48) hours after receipt of shipment, such Goods shall be deemed finally inspected, checked and irrevocably accepted by Buyer. In the absence of shipping instructions, Seller shall use its own discretion in choice of carrier. If any purchase order involves partial performances, any claim shall be asserted within such 48-hour period following each partial performance. Seller shall not be responsible for insuring shipments unless specifically requested by Buyer and any insurance so requested shall be at Buyer's expense and valuation.

7. **Title & Risk of Loss.** Title to any Goods sold and risk of loss of such Goods passes to Buyer upon delivery by Seller to carrier, and any claims for losses or damage shall be made by Buyer directly with carrier.

8. **Credit Terms.** All orders and shipments shall at all times be subject to the approval of Seller's Credit Department. Unless otherwise stated on the front hereof, credit terms are net thirty (30) days for orders approved by Seller's Credit Department. Seller reserves the right of declining to make shipment whenever, for any reason, there is doubt as to Buyer's financial responsibility and Seller shall not in such event be liable for breach or nonperformance of contract in whole, or in part.

9. **Taxes.** Unless otherwise specifically provided on the face hereof, the price for the Goods purchased is net and does not include sales, use, excise or similar taxes, whether federal, state or local. The amount of any such taxes applicable to the Goods shall be paid by Buyer in the same manner and with the same effect as if originally included in the purchase price.

10. **Packaging.** Prices stated are based on Seller's standard packaging. Packaging will be standard commercial package and acceptable to commercial carrier.

11. **Delays.** All shipping dates are approximate, and are based upon current availability of materials, present production schedules, and prompt receipt of all necessary information. Seller will not be liable for any damage, loss, fault, or expenses arising out of delays in shipment or other nonperformance of its obligations hereunder caused by or imposed by: (a) strikes, fires, disasters, riots, acts of God; (b) acts of Buyer; (c) shortage of labor, fuel, power, materials, supplies, transportation, or manufacturing facilities; (d) government action; (e) subcontractor delay; or (f) any other cause or condition beyond Seller's reasonable control. In the event of any such delay or nonperformance, Seller may, at its option, and without liability, cancel all or any portion of any purchase order and/or extend any date upon which any performance thereunder is due. For foreign destinations, Buyer shall, upon request, take all actions and provide all certifications or other documents required to enable Seller to export the goods from the country of manufacture. When the goods arrive at a foreign point of entry, Buyer shall take all actions and pay all duties, taxes or other costs necessary to import the goods.

12. **Termination, Cancellation & Changes.** Orders cannot be terminated, cancelled or modified, or shipment deferred after acceptance of Buyer's order by Seller, except with Seller's written consent (and subject to conditions then agreed upon which shall (i) indemnify Seller against liability and expense incurred and commitments made by Seller and (ii) provide for profit on work in process and contract value of products or parts completed and ready for shipment).

13. **Patented Process.** The purchase of the Goods does not entitle Buyer to employ the same with any patented process owned by Seller or others.

14. **Tooling.** Unless otherwise agreed, any special tooling and other equipment necessary to manufacture the products shall remain the property of Seller. Seller may charge Buyer for the cost of maintenance and rework of any tools and equipment owned and provided by Buyer.

15. **Confidential Information.** Seller and Buyer shall each receive and maintain in confidence all proprietary information, trade secrets or other know-how belonging to the other (including but not limited to knowledge of manufacturing or technical processes, financial and systems data and customer lists), (the “Confidential Information”) provided that any such Confidential Information is not previously known to the recipient, is not generally available in the industry in which the disclosing party is engaged or enters into the public domain without the act of the party obligated to maintain such confidentiality hereunder. Either party may disclose Confidential Information to the extent that such disclosure is required by any law or governmental regulation, subpoena or the decree of a court having competent jurisdiction, provided that the party required to disclose shall notify the other in writing as soon as practical in order to afford such party the best opportunity to defend against disclosure and shall only disclose such information as its legal advisers shall state is necessary. In the event of a breach by Buyer of any provision hereof regarding the disclosure of Confidential Information, Seller shall be entitled to immediate and permanent injunctive relief, it being agreed that the damages that Seller would sustain upon such violation are difficult or impossible to ascertain in advance. Nothing herein contained shall be construed as prohibiting Seller from pursuing any other remedies available to it for any such breach or threatened breach, including the recovery of monetary damages. The posting of a bond shall not be required as a pre-condition to such injunctive relief.

16. **Additional Charges.** If substitute or additional Goods, or repair parts, are purchased by Buyer from Seller, the terms and conditions of this contract shall be applicable thereto, the same as if such substitute or additional Goods or repair parts had been originally purchased hereunder.

17. **Quotations.** If these Terms and Conditions are attached to or provided in connection with Seller’s providing a quotation for the sale of Goods, unless otherwise defined by Seller on the face hereof, all quotations submitted to Buyer are subject to the following conditions:

- i. Quotation is deemed void 30 days after date of submittal.
- ii. Quotation and submitted pricing is based upon the Estimated Annual Usage(s) (EAU) and Minimum Release Quantities defined on the face hereof. Quantities differing from time of quote to implementation are subject to order acceptance and product re-costing at the discretion of Seller.
- iii. Product costing is based upon the revision level, accuracy, and completeness of Buyer’s documentation provided at time of quote request. Changes in documentation, specifications, and revision levels are subject to quote review and re-costing at Seller’s discretion.
- iv. Unless indicated otherwise on the face hereof, all products are to be controlled within Seller’s quality system(s) and workmanship standards and manufactured to IPC Class 2 Specifications.
- v. All Tooling, NRE, Fixturing, or unique charges on the face hereof are the sole responsibility of the Buyer unless otherwise agreed. All said charges will be addressed by Buyer with or prior to first order request.
- vi. It is the Buyer’s responsibility to review the “Costed Bill of Material” (supplied under separate cover) for the identification of minimum/multiple purchase requirements, non-cancelable/non-returnable product, product lead times, assumptions, and identification of alternates and obsolescence. Buyer is deemed liable for the purchase terms of materials with issuance of order. Buyer is responsible for approval of recommended substitutions/alternates prior to order acceptance by Seller.
- vii. Due to the market volatility for electronic components, material costing shall be periodically reviewed by Seller to ensure accuracy. Changes to the quoted sale price associated with the purchase price of materials (purchase price variances) will be communicated to Buyer.

viii. Seller will not be held responsible for quotation errors associated with (but not limited to) assumptions, missing/incomplete documentation, erroneous documentation, or changes due to revision levels. Seller reserves the right to void and correct any previously submitted quotations under such circumstances.

18. **Indemnification.** Buyer shall indemnify and hold harmless Seller, its officers, agents and employees against all expense, loss, attorneys fees, costs, damage or liability arising from any claim or action for defective products where the alleged defect relates to design, labeling or manufacture specifications supplied by Buyer. At the request of Seller, Buyer shall defend at its own expense all such claims or actions, provided that Seller shall be entitled, at its election, to participate in such defense.

19. **Infringement.** Buyer shall indemnify, defend and hold harmless Seller, its officers, agents and employees against any expense, loss, attorney's fees, costs, damage or liability arising out of all claims or actions for infringement of patents or copyrights, misappropriation of trade secrets or wrongful use of designs, trademarks or trade names based on product designs or specifications supplied by Buyer.

20. **Compliance with Laws.** Buyer warrants and certifies that it has complied, and will comply, with all applicable governmental, statutory and regulatory requirements and will furnish Seller with such proof of compliance as may be required hereunder. Buyer will not make any disposition, by way of trans-shipment, re-export, diversion or otherwise, except as such laws and regulations may expressly permit, of U.S. origin goods purchased from Seller, other than in and to the ultimate country of destination specified on Buyer's purchase order and/or declared as the country of ultimate destination on Seller's invoices. Buyer certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 (Anti-Kickback Procedures (Oct 2010)) or the Anti-Kickback Act of 1986 (41 USC 51-58), both of which are incorporated herein by this specific reference. Without limiting the foregoing, Buyer agrees that neither Buyer nor any of its employees or agents will take any action (or fail to take any required action) that would constitute a violation of any applicable laws, rules or regulations, including but not limited to the United States Export Administration Act, the International Traffic in Arms Regulations, the United States Foreign Corrupt Practices Act, the United Kingdom Bribery Act 2010, and the anti-boycott provisions of the United States Internal Revenue Code, in each case, in effect as of the date of this sales order and as amended from time to time. Buyer shall immediately notify Seller if Buyer is, or becomes, listed on any Denied Parties list or if Buyer's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency. Failure to comply with this Section 20 may be construed as a breach by Buyer sufficient to justify immediate termination by Seller, which remedy shall not be exclusive but shall be in addition to any other remedies available at law or equity.

21. **Severability.** In the event that one or more provisions hereof should be held to be unenforceable in any respect this document shall be construed as if such unenforceable provision(s) had not been contained herein.

22. **Choice of Law.** The sale of Goods pursuant to this order shall be governed by the laws of the State of Ohio, without regard to conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods is excluded and shall not apply.

23. **General Conditions.** No agent, salesman or other party is authorized to bind Seller by any agreement, warranty, statements, promise or understanding not herein expressed. In addition to the rights and remedies conferred upon Seller by law, Seller shall not be required to proceed with the performance of any order or contract, if Buyer is in default in the performance of any order or contract with Seller, and in case of doubt as to Buyer's financial responsibility, shipments under this order may be suspended or sent sight draft with bill of lading attached by Seller. Any clerical errors are subject to correction. No delay or omission by Seller in exercising any right or remedy provided for herein shall constitute a waiver of such right or remedy and shall not be constituted as a bar to or a waiver of any such right or remedy on any future occasion. This contract shall be binding upon and shall inure to the benefit of the successors, and assigns of Buyer and Seller, provided, however, that Buyer may not assign or transfer this contract, in whole or in part, except upon the prior written consent of Seller. Any purported assignment by Buyer without such consent shall be null and void.