



STANDARD TERMS AND CONDITIONS OF SALE

1. PARTIES TO AGREEMENT

The parties to this Agreement are as set forth on Seller's Sales Order Confirmation Form and/or Buyer's Purchase Order. Unless specifically agreed otherwise in writing, all sales and services provided between the parties are governed by these Terms and Conditions of Sale. In exchange of promises and for good and valuable consideration given and received, the signatories to this Agreement (the "Parties") agree as follows:

2. TERMS OF AGREEMENT

2.1 Definitions. The following definitions shall apply to this Agreement:

- 2.1.1 "Applicable Specification" shall mean the functional performance, operational compatibility characteristics of a Product agreed upon in writing by the Parties or, in the absence of an agreement, as described in applicable Seller Documentation.
- 2.1.2 "Customers" shall mean buyers of the Products, including Dealers and other similar customers who resell Products, but who may also be End Users.
- 2.1.3 "Dealer" shall mean a business entity whose primary business includes (but is not limited to) the sale of Products and accessories to End Users.
- 2.1.4 "Documentation" shall mean user manuals, training materials, product descriptions and specifications, technical manuals, license agreements, supporting materials and other printed information relating to the Products, whether distributed in print, electronic, or video format, in effect as of the date of the applicable Purchase Order and incorporated therein by reference.
- 2.1.5 "End Users" shall mean ultimate purchasers who have acquired Products for their own use and not for resale, remarketing or redistribution, unless specifically set forth in a separate agreement.
- 2.1.6 "Products" shall mean, individually or collectively as appropriate, the Products described on Buyer's purchase order and confirmed on Seller's Sales Order Confirmation Form. Documentation, supplies, accessories, and other commodities related to any of the foregoing, provided or to be provided by Seller pursuant to this Agreement.
- 2.1.7 "Purchase Order" means an order in writing by Buyer requesting the purchase of certain Products and/Services from Seller on commercial terms set forth in the Purchase Order and Sales Order Confirmation in accordance with Seller Terms and Conditions and any special terms agreed by the Parties. Buyer's Purchase Order shall not be accepted by Seller until confirmed by Seller by transmission of Seller's Sales Order Confirmation.
- 2.1.8 "Services" means any warranty, maintenance, advertising, marketing, or technical and customer support and any other services performed or to be performed by Seller or its agents.

3. PURCHASE ORDERS/SALES CONFIRMATION FORMS

- 3.1 New or Changes in Products. From time to time or at Seller's sole discretion, Seller may change or discontinue existing Products and/or introduce new products without liability to Buyer for any pending orders. However, Seller will inform Buyer as soon as possible about such changes in an effort to minimize any inconvenience to Buyer.
- 3.2 Issuance and Acceptance of Purchase Orders.
- 3.2.1 Buyer may issue to Seller one or more purchase orders identifying the Products Buyer desires to purchase from Seller. Each Purchase Order may include other terms and conditions which are consistent with the terms and conditions of this Agreement, or which are necessary to place a Purchase Order, such as billing and shipping information, required delivery dates, delivery locations, and the purchase price or charges for Products. Purchase Orders must be in writing from a person duly authorized by Buyer to make such an order and may be placed by Buyer by fax or email.
- 3.2.2 A Purchase Order shall not be accepted by Seller unless Seller notifies Buyer either in writing or email or fax after receiving the Purchase Order that Seller accepts the Purchase Order. Unless expressly accepted by Seller, any pre-printed terms and conditions appearing in Buyer's Purchase Order that conflict with the terms and conditions of this Agreement or Seller's Standard Terms and Conditions of Sale appearing on Seller's Website or in other documentation shall be void.
- 3.2.3 This Agreement shall not obligate Buyer to purchase any Products or services except as specifically set forth in a written Purchase Order or Sales Order Confirmation Form.

4. DELIVERY AND ACCEPTANCE OF PRODUCTS

- 4.1 Acceptance of Products. Buyer shall, within thirty (30) days after receipt of the Products, inspect each shipment and either accept or reject each Product (the "Acceptance Date"). Any Products that are not specifically and expressly rejected by Buyer due to a defect shall be accepted. In the event for any reason that Buyer does not reply to Seller to reject any Products during the 30-day inspection period, then all such Products shall be deemed accepted.
- 4.2 Defective Products. In the event any Products are received in a condition that is not in accordance with Seller's published specifications or the documentation relating to such Products, it shall be considered defective, and Buyer may return the Products for full credit. Products claimed to be defective must be confirmed by Seller. In the event of any question whether a Product is defective, Seller shall make the final determination.
- 4.3 Pricing and Shipping Terms. Unless otherwise agreed by the Parties, Seller shall deliver the Products to Buyer in accordance with ExWorks. Buyer is responsible for costs of transport, insurance, freight, US and foreign Customs clearance (INCOTERMS 2010). In the event that Seller drop ships an order, Seller shall use common carriers selected by Seller unless Buyer provides routing instructions in writing specifying a different or preferred common carrier. In the event Buyer's routing instructions specify a carrier whose rates are greater than those selected by Seller and Seller is shipping freight pre-paid, Buyer shall be liable for the difference in rates.

- 4.4 Title and Risk of Loss. Risk of loss or damage to Products shall pass to Buyer at the time that the Products are shipped from Seller's warehouse or factory. All risk of loss or damage to the Products shall be borne by Buyer. Title to the Products shall pass only upon Seller's receipt of payment in full and bank clearance of all payments.

5. INTELLECTUAL PROPERTY

- 5.1 Intellectual Property. Buyer acknowledges the ownership of and the validity of Seller's trademarks, brand names, trade names, copyrights, designs, trade secrets, inventions, or other intellectual property (collectively, "Intellectual Property"). Buyer will not reverse engineer, reverse compile or reverse assemble the Products in whole or in part, and Buyer will not develop: (a) any products incorporating any of Seller's Intellectual Property; nor (b) any improvements or applications related to the Intellectual Property. Buyer agrees not to apply for the registration of Intellectual Property in any country nor otherwise take any action inconsistent with Seller's rights in the Intellectual Property. Unless with the prior written consent of Seller, Buyer will not use in any way (including in Buyer's letterhead or presentation cards) Seller's trade or business names or trademarks, nor will Buyer represent to third parties that it can make binding commitments for Seller. Buyer will immediately notify Seller in writing of any potential infringement of Seller's Intellectual Property by other parties, or of any claim or possibility that the Intellectual Property infringes the rights of others, and will cooperate with Seller to protect Seller's Intellectual Property against infringement. If requested, Buyer will assist Seller in filing applications or other documents for the purpose of obtaining Intellectual Property registration or other rights in the Territory, for the benefit of Seller.
- 5.2 Subject to the above, Buyer is hereby authorized to use trademarks and trade names owned by Seller and third parties used in connection with the Products, but only for the limited purpose of using the Products. Buyer recognizes Seller has rights and ownership of certain trademarks, trade names and patents associated with the Products. Buyer will act consistently with such rights, and Buyer shall comply with any reasonable, written guidelines when provided by Seller relating to such trademark or trade name usage, but in no event without Buyer's prior written consent shall Buyer directly (or allow any third party) to register Seller's Intellectual Property rights or take any other actions to diminish the enforceability or Seller ownership of Intellectual Property rights in the Products.

6. CONFIDENTIALITY

- 6.1 Definition of Confidential and Proprietary Information. "Confidential Information" means all information published or unpublished, oral, written or electronic (including but not limited to server-based, internet-based, CD-ROM, DVD, and email) and conveyed in any form or media that relates in any way to both Parties' past, present, and future business practices, operations, financial and investor information, business plans and development or customer opportunities, factory, customer, consultant, and other business contacts, patents, copyrights, trademarks, know-how, trade secrets, or other intellectual property, chemical formulas, chemical compositions, manufacturing and application processes and techniques, samples, drawings, blueprints, designs, specifications, diagrams, flowcharts, software and complete or partial coding, contracts, equipment, machinery, chemical processes, business methodologies, and technology of any type which has been disclosed either prior to or subsequent to the date of this Agreement by the Disclosing Party directly or indirectly to the Receiving Party as part of this Agreement as well as either Party's ongoing business activities and relationships. Said disclosure through business relationships includes but is not limited to information generated by either Party or generated on its behalf by third parties regarding the Confidential Information, such as reports, communications, and evaluations. For the purposes indicated below, the exchange of ALL information between the Parties regarding Seller Products and

business activities shall be considered Confidential Information (regardless of whether it is or is not stamped or marked "confidential"), unless otherwise mutually agreed.

- 6.2 Both Parties acknowledge and agree that the Confidential Information disclosed by one Party to the other is of significant value and that neither Party will, without the other Party's express prior written permission in each instance, use the Confidential Information or any part thereof, either directly or indirectly, for any purpose whatsoever other than the advertising, promoting, selling, maintaining, or distributing the Products.
- 6.3 Both Parties agree to retain in strict confidence all such Confidential Information, and to take all precautions to prevent disclosure of the Confidential Information to any third parties, including affiliated companies, individuals, consultants, and agents, if any, unless those third parties have previously executed a Confidentiality Agreement with Seller with substantially the same terms as this Agreement covering the Confidential Information. At all times, the Confidential Information shall remain solely owned by the disclosing Party.

7. WARRANTIES, INDEMNITIES AND LIABILITIES

- 7.1 Limited Liability. Seller warrants the Products and Services against defects in materials and workmanship for ONE (1) YEAR from the date of shipment (ExWorks from Seller's premises, the "Warranty Period"). On the condition that Buyer informs Seller in writing of such a defect within the Warranty Period, and Seller accepts responsibility for such defect, then Seller may, in its sole discretion, either (a) repair or replace the defective Product or Service at no cost to Buyer, or (b) if in Seller's opinion neither repair or replacement of the Product or Service is feasible, then refund the purchase price of the defective Product or Service. The warranties for materials and goods manufactured by others and incorporated by Seller as a part of the Scope of Work shall be pass-through warranties, and the Representative shall revert to the original equipment manufacturer for remedies to any warranty problem associated with such materials and goods.
- 7.2 Buyer's Transfers of the Products. In the event Buyer sells, leases, assigns or otherwise transfers custody or ownership of Seller's Products to another party, and such transfer shall not extend the original warranty. Unless otherwise agreed by Seller, the warranty for all Products covers only defects in materials and workmanship for ONE(1) YEAR from the date of original shipment.
- 7.3 Warranty Exclusions. Seller's warranty of Products does not apply to any Product that Seller determines has, by Buyer, Buyer's customers or any other party (whether or not the intended end-user): (i) has changed or degraded due to normal or extraordinary wear and tear; (ii) been used or misused outside the scope of the intended or design use of the Product; (iii) been subjected to operating or environmental conditions in excess of limits set forth in any operating instructions or applicable specifications, including any chemicals, gases, parts, materials, substances, and products provided by any party other than Seller, or (iv) been commingled or incorporated with products or services not approved by Seller, including unapproved maintenance and servicing by third parties.
- 7.4 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER MAKES NO OTHER WARRANTIES WITH RESPECT TO THE PRODUCTS AND SERVICES, AND SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, FREEDOM FROM ERRORS, CORRECTNESS, ACCURACY, RELIABILITY AND RESULTS ACHIEVED, INFRINGEMENT, TITLE, AS WELL AS ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE TRADE.

- 7.5 SELLER'S TOTAL CUMULATIVE LIABILITY ARISING FROM THE USE OF THE PRODUCTS OR FOR BREACH OF THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNT OF COMPENSATION ACTUALLY RECEIVED BY SELLER WITH RESPECT TO PRODUCTS OR SERVICES TO WHICH SUCH LIABILITY RELATES. IN NO EVENT SHALL SELLER BE LIABLE FOR LOSS OF PROFITS, OR FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, BREACH OF CONTRACT, REPUDIATION OF CONTRACT, NEGLIGENCE, OR OTHERWISE.
- 7.6 Indemnification. Buyer shall indemnify and hold Seller, its officers, directors, agents and employees, harmless from any claims, demands, loss, damage, liability or expense, including attorneys' fees at trial, on appeal and on any petition for review, arising out of the following: (i) acts or omissions of Buyer, its employees, affiliates, or agents, (ii) any breach of its obligations under this Agreement, (iii) any misrepresentation or inaccurate or misleading statement or representation regarding the Products, Seller, or any activities under this Agreement, (iv) any liability relating to injuries, damages or loss of life caused by Buyer, its employees, affiliates, or agents in the course of any activity related to or in connection with rights or obligations under this Agreement, and (v) any liability (including taxes) caused by Buyer's business activities under this Agreement, as well as any business or non-business activities outside the scope of this Agreement.

8. PAYMENT TERMS

- 8.1 Charges, Prices and Fees for Products. Charges, prices, and quantities for Products shall be determined as set forth in Seller's Sales Order Confirmation, or as otherwise agreed upon by the Parties, and may be confirmed at the time or order. Seller shall have the right to increase prices from time to time, upon written notice to Buyer. Unless otherwise agreed by the Parties, all payments shall be in U.S. dollars.
- 8.2 Down Payment and Balance of Payment. Except as otherwise agreed by Seller, for all orders, Buyer shall pay a mutually agreed upon down payment at the time an order is placed or immediately upon acceptance or confirmation of the order by Seller, and the remaining balance no later than the date of shipment. Payment may be made by electronic wire transfer or confirmed, irrevocable, nontransferable commercial letter of credit to Seller's designated bank account.
- 8.3 Right of Offset. With regard to any monies owed by Buyer to Seller pursuant to activities in accordance with this Agreement, Seller may deduct and offset any such monies from the total outstanding that Seller may owe to Buyer. For any monies outstanding and overdue that Buyer may owe to Seller, Seller reserves the right to charge interest and penalties on any such funds owed to Seller, in accordance with applicable law.
- 8.4 Taxes. Unless otherwise agreed by the Parties, Buyer shall pay (and shall indemnify Seller against) all applicable taxes, charges, withholdings, and fees, including without limitation, value added, personal property, use, excise or similar taxes, customs duties, import and similar charges incurred or payable with respect to the import and sale of the Products by Buyer within or outside the Territory.

9. TERM AND TERMINATION

- 9.1 Term of Agreement. The term of the Agreement shall commence on the Effective Date and, unless terminated by either Party as set forth in this Agreement, shall remain in full force and effect for ONE (1) year. Thereafter the Parties shall agree in writing for separate one-year renewals, subject to any changes in terms and conditions as the Parties may mutually agree, if any, unless prior written notification of nonrenewal is received at least thirty (30) days prior to the renewal date.

- 9.2 Termination. Either Party may terminate this agreement, with or without cause, upon giving the other Party thirty (30) days prior written notice or the minimum amount of notice as required by applicable law, whichever is lower. In the event that either Party materially or repeatedly defaults in the performance of any of its duties or obligations set forth in this Agreement, and such default is not substantially cured within thirty (30) days after written notice is given to the defaulting Party specifying the default, then the Party not in default may, by giving written notice thereof to the defaulting Party, terminate this Agreement or the applicable Purchase Order relating to such default as of the date specified in such notice of termination.
- 9.3 Rights Upon Termination. Termination of any Purchase Order or this Agreement shall not affect Seller's right to be paid for undisputed invoices for Products already shipped. The termination of this Agreement shall not affect any of Seller's warranties, indemnifications or obligations relating to returns, credits or any other matters set forth in this agreement that are to survive termination in order to carry out their intended purpose, all of which shall survive this Agreement. The expiration of the term of this Agreement shall not affect the obligations of either Party to the other Party pursuant to any Purchase Order previously forwarded to Seller.

10. MISCELLANEOUS

- 10.1 Binding Nature, Assignment, and Subcontracting. This Agreement shall be binding on the Parties and their respective successors and assigns. Buyer shall not assign, transfer or sell its rights under this Agreement, or delegate its duties hereunder, without the prior written consent of Seller. A transfer of a controlling interest in Buyer to another legal operating entity shall constitute an assignment. Buyer shall have the power to assign any of its duties and obligations under this Agreement without the prior written consent of Seller.
- 10.2 Headings. The Article and Section headings used in this Agreement are for reference and convenience only and shall not enter into the interpretation hereof.
- 10.3 Relationship of Parties. Buyer is performing pursuant to this Agreement only as an independent Buyer. Nothing set forth in this Agreement shall be construed to create the relationship of principal and agent between Buyer and Seller. Neither Party shall act or represent itself, directly or by implication, as an agent of the other Party.
- 10.4 Notices. Wherever one Party is required or permitted to give notice to the other pursuant to this Agreement, such notice shall be deemed given when delivered in hand, by fax, email or when mailed by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

In the case of Seller:

In case of Buyer:

- 10.5 Change of Address. Either Party may from time to time change its address for notification purposes by giving the other Party written notice of the new address and the date upon which it will become effective.
- 10.6 Force Majeure. The term "Force Majeure" shall be defined to include fires or other casualties or accidents, acts of God, severe weather conditions, strikes or labor disputes, war or other violence, or any law, order, proclamation, regulation, ordinance, demand or

requirement of any governmental agency, and other occurrences beyond the reasonable control of a Party. A Party whose performance is prevented, restricted or interfered with by reason of a Force Majeure condition shall be excused from such performance to the extent of such Force Majeure condition so long as such Party provides the other Party with prompt written notice describing the Force Majeure condition immediately continues performance whenever and to the extent such causes are removed. If, due to a Force Majeure condition, the scheduled time of delivery or performance is or will be delayed for more than ninety (90) days after the scheduled date, the Party not relying upon the Force Majeure condition may terminate, without liability to the other Party, any Purchase Order or portion thereof covering the delayed Products.

- 10.7 Severability. If, but only to the extent that, any provision of this Agreement is declared or found to be illegal, unenforceable or void, then both Parties shall be relieved of all obligations arising under such provision, it being the intent and agreement of the Parties that this Agreement shall be deemed amended by modifying such provision, to the extent necessary to make it legal and enforceable while preserving its intent.
- 10.8 Waiver. A waiver by either of the Parties of any covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained.
- 10.9 Remedies. All remedies set forth in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity or otherwise, and may be enforced concurrently or from time to time.
- 10.10 Survival of Terms. The following terms and provisions shall survive termination or expiration of this Agreement for any reason and shall not release either Party from any liabilities or obligations: Section 5 (Intellectual Property); 6 (Confidentiality); 7 (Warranties, Indemnities and Liabilities); 8.3 (Right of Offset); 9.3 (Rights Upon Termination); 10.10 (Survival); 10.14 (Governing Law); 10.15 (Dispute Resolution).
- 10.11 Compliance with Law. Buyer agrees to comply with all applicable laws, rules and regulations of the Territory in which it operates and/or is established. Buyer shall do nothing to cause Seller to violate any applicable law, rule or regulation, and Buyer shall indemnify and hold Seller harmless against any claims, liability, costs and expenses incurred by Seller in respect thereof.
- 10.12 UNCISG. Seller and Buyer agree to expressly exclude all terms and conditions and application of the U.N. Convention on Contracts for the International Sale of Goods (the "UNCISG") to the terms and conditions of this Agreement. In the event, that any of the provisions of this Agreement conflict with any provision(s) of the UNCISG, the provisions of this Agreement shall govern and shall supersede any such conflicting provisions of the UNCISG.
- 10.13 Entire Agreement. This Agreement, including any Exhibits and documents referred to in this Agreement or attached hereto, constitutes the entire and exclusive statement of Agreement between the Parties with respect to its subject matter and there are no oral or written representations, understandings or agreements relating to this Agreement which are not fully expressed herein.
- 10.14 Governing Law. This Agreement and all provisions and appendices shall be construed in accordance with the laws of the State of Oregon, U.S.A., to the exclusion of all conflicts of law alternatives. All matters relating to or arising from this Agreement, including communication between the Parties and dispute resolution shall be conducted in the English language.

10.15 Dispute Resolution. The Parties consent to the exclusive jurisdiction and venue of the state and federal courts located in the State of Oregon, U.S.A. for any action, suit, or legal proceeding arising in connection with this Agreement. Both Parties hereby waive any right to object to this exclusive venue and governing law, and the Parties agree to refrain from seeking transfer of the forum for any disputes to any other locations except the above. In the event that either Party initiates legal proceedings in connection with this Agreement, the prevailing Party shall be reimbursed by the losing Party all costs and expenses incurred in relation to the legal proceedings, including attorneys' fees mediation, and court or arbitration costs.

End.