

STANDARD TERMS AND CONDITIONS OF SALE

1. **ACCEPTANCE AND CANCELLATION OF ORDERS.**

Each order for goods is subject to acceptance in writing by a duly authorized agent of Seller; any written acknowledgement of receipt of an order shall not, in and of itself, constitute such acceptance. Orders accepted by Seller may be canceled by Buyer only upon written consent of Seller. In the event of cancellation or other withdrawal of an order for any reason and without limiting any other remedy which Seller may have as a result of such cancellation or other withdrawal, reasonable cancellation or restocking charges, which shall include all costs incurred by Seller in fulfilling the order, shall be paid by Buyer to Seller. Orders for items identified as non-cancelable and non-returnable (NCNR) or may be defined as customer specific goods will be identified and agreed to by Buyer at the time of order placement and such goods will be the sole liability of the Buyer.
2. **DELIVERY.**

All prices quoted and goods shipped are F.O.B. Seller's facility (or in the definition of International Commercial Terms - INCOTERMS 2020; EXW (Ex Works), Seller's facility). Title to and risk of loss of all goods shall pass upon Seller's delivery to carrier to Buyer. Unless otherwise agreed by Seller in writing, Buyer shall pay all freight, handling, delivery and insurance charges for shipment of goods. Choice of carrier and shipping method and route shall be at the election of Seller unless expressly designated in writing. Seller shall not be liable for delays in delivery or failure to perform due to causes beyond the reasonable control of Seller, such causes shall include, without limitation, acts of God, acts or omissions of Buyer or civil or military authorities, fires, strikes, epidemics, quarantine restrictions, man-made or natural disasters, market constraints, and/or transportation delays. The contractual date of delivery, if any, shall be extended for a period equal to the time lost as a consequence of such delay without penalty to Seller. In its sole discretion, Seller may allocate, defer, delay or cancel the shipment of any goods which are in short supply. Seller shall be entitled to refuse or to delay shipments upon failure by Buyer to pay promptly any payments due Seller, whether on this or any other contract between Seller and Buyer. Seller shall have the right to deliver all goods covered hereby at one time or in portions from time to time within the time for delivery provided in such order.
3. **TERMS.**
 - a) Unless otherwise specified by Seller in writing, payment in full or net amount owing, without offset or deduction, is due 30 days from date of invoice or as mutually agreed to. If payment is not received within such 30-day period, a late payment of 1% per month of the unpaid balance or the maximum amount allowed by law, whichever is less, shall be paid by Buyer.
 - b) All payments are accepted subject to collection. Buyer agrees to pay Seller's actual costs of collection, including without limitation reasonable attorney fees, costs and third party collection fees. Any payment received from Buyer may be applied by Seller against any obligation of Buyer to Seller under this or any other agreement, notwithstanding any statement or direction from Buyer with regard to such payment. Acceptance of any partial payment shall not constitute a waiver of Seller's right to payment in full of all amounts owing from Buyer to Seller.
 - c) Seller shall have the right to refuse to ship to Buyer on credit at any time and shipments made to Buyer on a C.O.D. or other basis shall be subject to the terms and conditions of sale contained herein.
4. **INSPECTION AND ACCEPTANCE OF GOODS.**

Buyer is deemed to have accepted goods unless written notice of rejection is given to Seller within a reasonable time, which is agreed to be within ten (10) days after receipt. CLAIMS OF LATE DELIVERY are void unless made prior to receipt of goods, and receipt of goods shall constitute a waiver of any claim of late delivery. No return will be accepted without prior "Return Material Authorization Number" (RMA #) from Seller with Buyer giving the reason for a return. Goods must be returned as directed by Seller's location issuing the RMA# and be in its original packaging. Returns of goods packaged in electrostatic packaging will not be accepted if electrostatic packaging has been opened.
5. **SELLER'S RIGHT TO INCREASE PRICES.**

Unless otherwise specified on the face of this Agreement, Seller reserves the right to increase the selling price of any and all goods ordered by Buyer prior to shipment from Seller's place of business due to an increase in cost of such goods by Seller's Original Component Manufacturer ("OCM") supplier. The selling price quoted to Buyer shall, upon an increase in price by Seller's OCM supplier, be increased by the same percentage of increase in Seller's costs for the goods and Buyer agrees to pay any such increased price in accordance with the terms hereof.
6. **TAXES.**

Seller's prices do not include sales, use, excise or similar taxes. Seller shall properly impose upon, collect from Buyer, and timely remit to the appropriate governmental authorities any sales, use, or value added taxes, customs duties, tariffs or similar levies, including fines and penalties ("Taxes") applicable to goods including Services sold, licensed, delivered, or furnished hereunder. Each Tax will be separately stated on any Seller invoice. To the extent software including documentation is delivered electronically, Seller's invoice shall indicate the manner of delivery as "software delivered electronically to the customer" and identify locations where the software will be used if known. Invoices shall not include any Taxes for which Buyer has furnished a valid exemption certificate. If Seller receives a refund of any Taxes attributable to Buyer, Seller will promptly credit such amount to Buyer. If Seller receives notice of any additional Taxes applicable to this Agreement, Seller shall promptly notify Buyer.
7. **DISCLAIMER OF WARRANTIES AND LIMITATIONS OF REMEDIES.**
 - a) Seller makes no warranties or representations regarding the Goods sold. **SELLER DISCLAIMS ANY WARRANTY RESPECTING THE MERCHANTABILITY OF THE GOODS SOLD TO BUYER OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE OR USE.** Seller is an authorized distributor of the Original Component Manufacturer ("OCM") goods. As such, Seller agrees to transfer to Buyer those transferable warranties Seller receives from the OCM for the goods sold to Buyer and is in accordance with the applicable OCM specifications. The warranties set forth herein shall not apply to any goods that: 1) have been subject to an accident, excessive stress, modification, or abnormal wear and tear; and, 2) that have not been kept in a controlled environment which reasonably limits damage resulting from heat, humidity, corrosion, contamination and/or electrostatic discharge for normal storage and prescribed maintenance. Value-added work performed by Seller will conform to applicable Buyer's specifications relating to such work.
 - b) Seller's liability arising out of any sale of goods to Buyer is expressly limited to either: 1) refund of the purchase price paid by the Buyer for such goods (without interest); or 2) repair and/ or replacement of such goods at Seller's election, and such remedies shall be exclusive and in lieu of all others. **In no event shall Seller be liable for indirect, special, incidental or consequential damages of any nature, including, but not limited to, loss of profit, promotional or manufacturing expenses, overhead, injury to reputation or loss of customers, personal injury or property damage.** Buyer's recovery from Seller for any claim shall not exceed the purchase price paid by Buyer for the goods, irrespective of the nature of the claim, whether in warranty, contract or otherwise.
8. **PATENT INFRINGEMENTS.**

Seller makes no representations that any goods sold to Buyer are free of the rightful claim of any third person by way of infringement, license or infringement of patent or trademark or any claim arising from the assertion of intellectual property rights of any kind, and disclaims any warranty against infringement with respect to any such goods. Buyer agrees to look solely to the OCM or licensor of the goods with respect to any claim of infringement. Furthermore, Buyer agrees to protect, defend, indemnify and hold harmless Seller from all sums, costs, expenses and attorney fees which Seller may incur or be obligated to pay as a result of any and all claims and demands, causes of action or judgments arising out of or relating to any use, modification, adaptation or enhancement of the goods purchased from Seller.
9. **INDEMNIFICATION.**

Buyer shall hold harmless and indemnify Seller, its respective directors, officers, employees, agents, successors and assigns to the full extent of any liability, loss, cost, claim, damage or expense actually incurred by the injured party, including, but not limited to, reasonable attorneys' fees for the defense of all liabilities, costs, claims, damages and expenses by reason of any actual property damage or personal injury that is caused by any misconduct or any negligent act or omission of the Buyer, its employees and agents. Seller shall provide Buyer with prompt notice of any claim within the foregoing provision and shall give Buyer the full right to defend any such claim and shall cooperate fully in such defense.
10. **INSURANCE.**

Seller shall maintain throughout the performance of this agreement or any related Purchase Order, general third party legal liability insurance, product/goods liability insurance, worker's compensation and automobile insurance having limits consistent with industry standards or statutory requirements and determined by Seller to be reasonable and necessary or as required by law. Seller does not name Buyer or Buyer's Customers as "Additional Insured" nor provide a "Waiver of Subrogation in favor of Buyer or Buyer's Customer."
11. **INSTALLATION.**

Buyer shall be solely responsible for the installation and operation of the goods covered hereby, including without limitation the obtaining of all permits, licenses or certificates required for the installation of such goods.
12. **USE OF GOODS IN LIFE SUPPORT APPLICATIONS.**

Goods sold by Seller are not authorized to be used in life support equipment or for applications in which the failure or malfunction of the goods would create a situation in which personal injury or death is likely to occur. Any such use or sale of goods sold by Seller is at the sole risk of Buyer, and Buyer agrees to indemnify and defend Seller against and hold Seller harmless from all damages, costs and expenses, including without limitation attorney fees and costs relating to any claim, demand, cause of action, lawsuit or threatened lawsuit, or judgment arising out of such use or sale.
13. **TECHNICAL INFORMATION AND DATA.**

Any technical information or data offered by Seller in connection with the sale of goods is an accommodation to Buyer without charge and Buyer waives any claim against Seller and releases Seller from any and all liability arising from Buyer's reliance upon such technical information and data. Without Seller's prior written consent, Buyer shall not transfer, duplicate or disclose to any third party any technical information or data offered by Seller in conjunction with the sale of goods to Buyer. Any use made of Seller's classifications, whether it be ECCNs or any variation of Harmonized Tariff codes, is without recourse to Seller and at the Buyer's risk. Export classifications are subject to change. If Buyer exports or re-exports the goods, Buyer, as the exporter of record, is responsible for determining the correct classification of any item at the time of export. Any export classification by Seller is for Seller's internal use only and shall not be construed as a representation or warranty regarding the proper export classification nor relied upon to make licensing determinations.
14. **SOFTWARE.**

All computer software, if any, delivered by Seller to Buyer is licensed pursuant to separate licensing agreement or other arrangements, from the owner of the software or other third party directly to Buyer. Buyer acknowledges receipt of a separate agreement pursuant to which software delivered to Buyer is licensed. Buyer acknowledges that Seller is not a party to such license with respect to software supplied hereunder. Buyer agrees to look directly to the licensing party in connection with all maintenance, support, infringement, warranty and other claims relating to software delivered to Buyer hereunder.
15. **DEFAULT.**

In the event of any default by Buyer, Buyer shall pay all costs incurred by Seller in enforcing these Terms and Conditions, including without limitation, Seller's actual costs of collecting any payments due Seller including attorneys' fees and costs. The waiver by Seller of any breach hereof or default in any payment shall not be deemed to constitute a waiver of any other breach or default. In the event of default, Seller shall have all remedies provided under the Uniform Commercial Code which shall be cumulative with one another and with any other remedies which Seller may have at law, in equity, under any agreement of any type or, without limitation, otherwise. The exercise or failure to exercise any remedy shall not preclude the exercise of that remedy at another time or any other remedy at any time. No action, regardless of form, arising out of, or in any way connected with, the goods furnished or services rendered by Seller, may be brought by Buyer more than one year after an alleged cause of action accrues.
16. **INTEGRATION AND ASSIGNMENT.**

This agreement sets forth the sole and entire agreement between Buyer and Seller with regard to the subject matter hereof and supersedes any and all prior or contemporaneous oral or written agreements between them regarding the same. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance 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 had knowledge of the nature of the performance and opportunity for objection. No modification of this agreement whatsoever shall be enforceable unless reduced to writing and signed by both Seller and Buyer. No affirmation, representation or warranty made by any agent, employee or representative of Seller shall be enforceable against Seller unless such affirmation, representation or warranty is reduced to writing, signed by Buyer and Seller, and expressly incorporated into these Terms and Conditions. Any assignment of this agreement or any rights hereunder by Buyer shall be void without Seller's prior written consent.
17. **BUYER'S TERMS AND CONDITIONS.**

Seller desires to provide its customers with prompt and efficient service. Accordingly, goods furnished and services rendered by Seller are sold solely and exclusively on the Terms and Conditions stated herein. Any different, conflicting or additional terms or conditions of sale expressed in the Buyer purchase orders, invoice, confirmations or other buyer-generated documents ("Buyer Documents") whether heretofore or hereafter submitted are expressly rejected by Seller, and all different, conflicting or additional terms or conditions expressed in any Buyer Documents are hereby deemed to be material alterations of these Terms and Conditions and notice of objection to and rejection of such terms is hereby given. Seller's performance of any contract of sale with Buyer is expressly conditional on Buyer's acceptance of these Terms and Conditions of Sale, unless otherwise specifically agreed in writing by Seller. In the absence of such agreement, commencement of performance and or delivery of goods shall be for Buyer's convenience only

and shall not be deemed or construed to be acceptance of terms and conditions expressed in any Buyer Documents. Buyer's acceptance of goods or services from Seller shall be conclusively deemed acceptance of these Terms and Conditions of Sale.

18. **EXPORT/IMPORT.**
Certain goods and related technology and documentation sold by Seller are subject to export control laws, regulations and orders of the United States, the European Union, and/or other countries ("Export Laws"). Buyer shall comply with such Export Laws and obtain any licenses, permits and authorizations required to transfer, sell, export, re-export or import all goods and related technology and documentation in full compliance with such Export Laws. Buyer will not export or re-export the goods and related technology and documentation to any country, region, or entity under sanction or embargoes administered by the United States, U.S. Department of Treasury, U.S. Department of Commerce or U.S. Department of State. Additionally, and in light of the sanctions imposed by the US government on various Venezuelan entities, Buyer agrees that it will not export or re-export the Goods and related technology to Venezuela. Buyer will not use the goods in relation to nuclear, biological or chemical weapons or missile systems capable of delivering same, or in the development of any weapons of mass destruction.
19. **SPARES FOR AFTER AGREEMENT SUPPORT.**
Accepting this Order does not constitute a commitment upon Seller to provide goods for the life of the Buyer's products or any integrated subsystem.
20. **SECURITY INTEREST.**
Seller waives all and does not grant to Buyer any security interest ("Security Interest") in the materials, components, contracts, Intellectual Property, and all other property and any proceeds thereof that may be acquired or allocated by Seller for use in the acquisition, assembly, and manufacture of the Goods, in the completed Goods ("Secured Property") under any Purchase Order of Buyer.
21. **COMPLIANCE WITH LAW.**
Buyer shall at all times comply with all applicable governmental laws, statutes, ordinances, rules, regulations, orders, and other requirements, including, without limitation, such governmental requirements applicable to environmental protection, health, safety, wages, hours, equal employment opportunity, nondiscrimination, anti-corruption and working conditions.
22. **GOVERNMENT PRIME CONTRACTS.**
If this Order indicates that it is placed under a government contract, all Federal Laws and regulations relating to such contract shall apply and be in effect, including such portions of the Federal Acquisition Regulations ("FAR") or applicable supplement as may be relevant to this Order. If this Order is under a covered government contract, Seller certifies, to the best of its knowledge and belief, that neither Seller nor any of its principals are debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency. Certain flow down FAR clauses or applicable supplements in an Order may not be applicable to specific Orders due to the dollar thresholds or other requirements as stated in the prescribed clause of the FAR or applicable supplemental flow downs. Clauses that are not applicable shall not be removed from an Order reference, and will be considered by all Parties to be without force and effect. For certain clauses, Buyer must provide applicable language describing the circumstances under which the clauses apply to the Order.
23. **GENERAL.**
This agreement and performance by the parties hereunder shall be construed in accordance with the internal laws (excluding the laws relating to conflicts) of the State of Texas including the provisions of the Texas Uniform Commercial Code. The parties expressly exclude the applicability of the United Nations Convention on Contracts for the International Sale of Goods, 1980, or any successor thereto to this Agreement. All agreements, covenants, conditions and provisions contained herein shall apply to and bind the assignees and successors in interest of Buyer. If any provisions or portion of this agreement is held to be invalid, illegal, unconscionable or unenforceable, the other provisions and portions hereof shall not be affected. The captions used herein are for the convenience of the parties only and shall not affect the instruction or interpretation hereof.
24. **AFFIRMATIVE ACTION.**
As applicable, Seller shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status. **YOU ARE HEREBY NOTIFIED that acceptance of this Agreement constitutes (1) your agreement to be bound by the requirements, regulations, and provisions contained within this paragraph, to the extent required by law, and (2) your consent to provide any required certification of same to Seller, at Seller's request.**