

# STANDARD TERMS AND CONDITIONS OF SALE

1. **Acceptance and Cancellation of Orders.** Any contract for the sale of goods made between Buyer and Seller may be cancelled by Buyer only upon the advance written consent of Seller (which it may withhold in its sole and absolute discretion). As a condition to receiving Seller's written consent, Buyer shall pay all reasonable cancellation and restocking charges incurred by Seller due to Buyer's cancellation of the order. Special orders for items not normally stocked by Seller are non-cancelable and non-refundable.

2. **Delivery.** All prices quoted and goods shipped are F.O.B. Seller's place of shipment. Risk of loss of all goods shall pass to Buyer when the goods are placed by Seller in possession of a common carrier selected by Seller for shipment to Buyer. Unless expressly provided otherwise on the front of this Contract, Buyer shall pay all freight, handling, delivery, and insurance charges assessed by Seller for the shipment of goods. Seller may refuse or delay any shipment if Buyer fails to satisfy or fulfill any contractual obligations to Seller, whether pursuant to this Contract or any other contract between Seller and Buyer. Seller may deliver all goods covered by this Contract at one time or in portions, from time to time, within the time for delivery provided in the order. Seller shall use all reasonable endeavours to meet the delivery dates requested by Buyer but time of delivery shall not be of the essence and Seller shall have no liability to Buyer if Seller fails to meet any requested or estimated date for delivery.

3. **Force Majeure.** Seller is excused from performance of any obligations and shall not be liable for delays in delivery or for failure to perform if its failure or delay of performance is caused by events or conditions beyond Seller's reasonable control, including without limitation, acts of God, acts of the public enemy, quarantine restrictions, expropriation or confiscation of facilities, compliance with any order of any governmental authority, industrial disturbances, blockades, insurrections, arrest and restraint of people or rulers, civil disturbances, boycotts, acts or omissions of Buyer or civil or military authorities, fire, strike, lock-outs, landslide, lightning, wash-outs, tornadoes, hurricanes, windstorms, explosions, epidemic, flood, storm, earthquake, riot, war, breakage or accident of machinery or equipment, delays in transportation, or inability to obtain necessary labor, materials, or supplies. In the event of any delay, the contractual date of delivery, if any, shall be extended for a period equal to the time lost as a consequence of the delay without penalty to Seller.

#### 4. **Payment Terms.**

(a) Buyer shall pay for the goods in full, without offset or deduction, within the time frame and in the manner set forth on the front of this Contract. For those sales that do not require payment in advance of or upon delivery, if payment is not received by Seller within the period set forth on the front of this Contract, Buyer shall pay to Seller, on demand, a late payment charge of 1.5% per month of the unpaid balance or the maximum rate of interest allowed by law, whichever is less. Time is of the essence with respect to Buyer's obligation to pay all invoices in full in a timely manner. Seller may sue for the price of the goods notwithstanding that delivery has not occurred or property in them not passed to Buyer.

(b) All cheques are accepted subject to collection. Seller may offset against any payment hereunder any amount owed to Seller by Buyer, whether under this or any other contract between Buyer and Seller. Acceptance of any partial payment shall not constitute waiver of Seller's right to payment in full of all amounts owing from Buyer to Seller.

(c) Notwithstanding delivery and the passing of risk in the goods shipped pursuant to this Contract, or any provisions in this Contract, the legal and beneficial ownership in the goods shall not pass to Buyer until Seller has received in cash or cleared funds payment in full of the price of the goods agreed to be sold by Seller to Buyer for which payment is then due.

5. **Limited Warranty.** Subject to Section 6, Seller warrants that it has title to the goods and that the goods generally conform to the descriptions, if any, on the front page of this Contract. The term manufacturer (Mfr) refers to the original manufacturer of the product when identified. The term condition (Cond) refers to the condition of the product. All product is new (Unused) when identified as AO. Product identified as A1 may or may not be new, may or may not be reconditioned, may or may not have retained leads, may or may not have been cleaned, and may or may not have straightened leads. Product identified as A2 is the same as product identified as A1 but has been tested. THE FOREGOING WARRANTIES ARE SELLER'S EXCLUSIVE WARRANTIES, AND THE GOODS SOLD UNDER THIS AGREEMENT ARE SOLD "AS IS" AND "WITH ALL FAULTS." EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER RELATING TO THE GOODS, INCLUDING WITHOUT LIMITATION THE DESIGN AND CONDITION OF THE GOODS OR THEIR QUALITY, CAPACITY, SUITABILITY, CONSTRUCTION, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE. Buyer acknowledges that Seller is acting solely as a third party distributor of the goods covered by this invoice and that the licensor or the manufacturer of the goods shall be solely responsible to Seller and third parties for all liability, claims, damages, obligations, and costs and expenses related to the goods distributed by Seller. Buyer agrees to look solely to the manufacturer for compliance with the manufacturer's warranty and for any maintenance, support or repair of the goods. Seller assigns to Buyer any warranty delivered to Seller by a manufacturer or other vendor to the extent the assignment is permitted by the terms thereof. Seller makes no representation, covenant, or warranty with respect to the extent or enforceability of the manufacturer's warranty. No repair or replacement of goods by Seller or manufacturer shall extend the warranty period of the manufacturer. Seller neither assumes nor authorizes Buyer or any other person to assume on behalf of Seller any other liabilities in connection with the use, sale, or resale of the goods.

#### 6. **Limitation of Liability.**

(a) Within 30 days after receipt of each shipment of goods, Buyer shall have the right to examine and test the goods to determine if there is any damage, defect, or shortage. All claims for any damage, defect, or shortage, or for any cause whatsoever (whether the claim is based in contract, negligence, strict liability, other tort, or otherwise) shall be deemed waived unless made in writing and received by Seller within 30 days after Buyer's receipt of the goods, or, if the claim is for non-delivery of goods, within 30 days after the date the goods were to be delivered. Provided, however, that any claim not reasonably discoverable within that 30-day period (including a claim discoverable only in processing, further manufacture, other use, or resale) must be made in writing and received by Seller within 60 days after Buyer's receipt of the goods, or within 30 days after Buyer learns of the facts giving rise to the claim, whichever occurs first. Failure of Seller to receive written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Buyer of the claim regardless of whether the facts giving rise to the claim shall have then been discovered or whether processing, further manufacture, other use, or resale of goods shall have then taken place.

(b) BUYER'S EXCLUSIVE REMEDY SHALL BE FOR DAMAGES AND SELLER'S TOTAL LIABILITY FOR ANY AND ALL LOSSES AND DAMAGES ARISING OUT OF ANY CLAIM WHATSOEVER (WHETHER THE CLAIM IS BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY) SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE GOODS IN RESPECT TO WHICH THE CLAIM ARISES OR, AT SELLER'S OPTION, THE REPAIR OR REPLACEMENT OF THE GOODS. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES RESULTING FROM ANY CLAIM (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, BUSINESS LOSSES, DAMAGE TO PROPERTY, OR ANY LIABILITY OF BUYER TO ITS CUSTOMERS OR THIRD PARTIES). In no event is Seller liable to Buyer or any third party for any liability, claims, obligations, damages, costs, or expenses, including without limitation, any direct, indirect, special, incidental, or consequential damages (including lost profits, business losses, personal property damage, personal injury, and death) arising out of or relating to the sale of goods by Seller to Buyer or any related services provided to Buyer. Seller is not liable for, and Buyer assumes full liability for, all personal injury and property damage connected with the handling, transportation, possession, processing, repackaging, further manufacture, or other use or resale of goods, whether the goods are used alone or in combination with any other material.

(c) 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 could 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 and costs arising out of such use or sale.

7. **Returns.** Buyer may return to Seller any goods that are damaged or defective solely by obtaining a Return Material Authorization ("RMA") from Seller within 30 days of receipt of the goods. Buyer must return to Seller the damaged or defective goods within the period set forth in the RMA. The RMA number must be listed on all packaging containing goods returned to Seller. If Buyer does not request from Seller an RMA within 30 days of receiving the goods to be returned, or requests an RMA for goods that are not damaged or defective, Seller may, at its sole discretion, refuse to issue an RMA for return of the goods or may require that Buyer pay to Seller a reasonable restocking fee as a condition of issuing to Buyer the RMA.

8. **Seller's Right to Increase Prices.** Seller reserves the right to increase the price of the goods covered by this Contract at any time and from time to time to reflect any increase in Seller's costs for those goods caused by an increase in the price charged by Seller's supplier, and Buyer agrees to pay to Seller any such increased price according to the terms of this Contract.

9. **Taxes.** Seller's prices do not include sales, use, excise, value-added or other similar taxes. Accordingly, Buyer shall pay or bear, in addition to prices specified by Seller, all local, municipal, provincial, and national taxes, including all sales, use, excise, value-added or other similar taxes, payable with respect to the goods or the transactions contemplated herein, or, alternatively, provide Seller with tax exemption certificates acceptable to the applicable taxing authorities.

10. **Intellectual Property.** Seller disclaims any warranty against infringement with respect to the goods sold pursuant to this Contract and the packaging relating to such goods. Seller is not liable with respect to any actual or alleged infringement of any patent, trademark, copyright, maskwork right, trade dress, trade secret, or similar proprietary rights in or of the United States, the People's Republic of China ("China") or any other jurisdiction. trademark, copyright, maskwork right, trade dress, trade secret, or similar proprietary rights.

11. **Installation.** Buyer is solely responsible for the installation and operation of the goods, including without limitation, obtaining all permits, licenses, or certificates required for the import and installation or use of the goods.

12. **Technical Advice and Data.** Any technical advice offered or given in connection with the use of any goods is an accommodation to Buyer without charge, and Seller is not liable or responsible whatsoever for the content or use of that advice. Without Seller's prior written consent, Buyer shall not use, duplicate, or disclose any technical data delivered or disclosed by Seller to Buyer for any purpose other than for installation, operation, or maintenance of the goods purchased by Buyer from Seller.

13. **Breach.** The waiver by Seller of any breach hereof or default in any payment shall not constitute a waiver of any succeeding breach or default. 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 other time. No action, regardless of type, arising out of, or in any way connected with, the goods furnished or services rendered by Seller to Buyer, may be brought by Buyer more than one year after the cause of action has accrued. Buyer shall pay to Seller, on demand, all costs incurred by Seller in enforcing, prosecuting, or defending any provision of this Contract. For purposes of this Contract, "costs" means the fees, costs, and expenses of experts, attorneys, mediators, witnesses, arbitrators, collection agents, and superedeas bonds, whether incurred before or after demand or commencement of legal proceedings, and whether incurred pursuant to trial, appellate, mediation, bankruptcy, arbitration, administrative, or judgment-execution proceedings.

14. **Integration and Assignment.** This Contract records the final, complete, and exclusive agreement between the parties with regard to the subjects addressed in it 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 is relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract is not relevant to determining the meaning of this Contract even though the accepting or acquiescing party had knowledge of the nature of performance and opportunity for objection. An amendment or modification of this Contract will be valid and effective only if it is in writing and signed by both Buyer and Seller. Any assignment by Buyer of this Contract or any rights in it, without Seller's advance written consent shall be null and void.

15. **Buyer's Terms and Conditions.** Goods furnished and services rendered by Seller to Buyer are sold only on the terms and conditions stated herein. Notwithstanding any terms or conditions on any document of Buyer, the information and conditions on this document are controlling over Buyer and Seller. Any different or additional terms or conditions contained on Buyer's purchase order, invoice, confirmation, or any other Buyer generated document are specifically objected to by Seller. Seller's performance of any contract is expressly made conditional on Buyer's agreement to Seller's terms and conditions contained in this Contract. Commencement of performance or delivery shall be for Buyer's convenience only and shall not constitute acceptance by Seller of Buyer's terms and conditions. If a contract is not earlier formed by mutual agreement between Buyer and Seller, acceptance of any goods or services by Buyer shall constitute acceptance by Buyer of the terms and conditions stated herein.

16. **Legal Proceedings.** This Contract shall be governed in all respects including but not limited to its validity, construction and performance, by the laws of China. In the event of any dispute, claim or controversy arising out of or relating to this Contract (a "Dispute"), the parties shall first attempt to settle such Dispute amicably. If no such amicable settlement can be reached within sixty (60) days after notice by either party to the other party of the Dispute, either party shall have the right to submit the Dispute for resolution before China International Economic and Trade Arbitration Commission ("CIETAC") in Beijing for arbitration in accordance with the CIETAC arbitration rules then in effect. The arbitral tribunal shall consist of three (3) arbitrators experienced in applicable corporate and commercial law and matters, one (1) of whom shall be appointed by Seller, one (1) of whom shall be appointed by Buyer, and one (1) of whom shall be appointed by the mutual agreement of the two (2) arbitrators so appointed by Seller and Buyer, in accordance with the applicable CIETAC arbitration rules. The fees and expenses of the arbitral tribunal and other reasonable related expenses shall be borne by the losing party unless otherwise determined by the arbitral tribunal. The award rendered by such arbitration shall be final and conclusive and binding upon both parties. During arbitration of a Dispute, except for the matter or matters under arbitration, the parties shall continue to perform their respective obligations under this Contract without prejudice to a final adjustment of such obligations in accordance with the award rendered by the arbitration settling such Dispute. applicability of the United Nations Convention on Contracts for the International Sale of Goods.

17. **General.** All agreements, covenants, conditions and provisions contained herein shall apply to and bind the assignees and successors in interest of Buyer. In the event that any provision or part of a provision in this Contract shall for any reason, be determined by a court or arbitral tribunal or to be invalid or unenforceable then the remaining provisions and remaining parts of the provisions shall not be affected, impaired, or invalidated, and shall remain in full force and effect and shall continue to be binding upon the parties. The captions used herein are for the convenience of the parties only and shall not affect the constructions or interpretation hereof. Nothing in this Contract, whether express or implied, is intended or should be construed to confer upon, or grant to, any person, except Buyer and Seller, any claim, right, or remedy under it.

18. **Compliance with Law.** Buyer agrees to comply with all relevant export and trade control laws, regulations, or requirements of the United States, China and other relevant jurisdictions, including, without limitation, the U.S. Export Administration Regulations (15 C.F.R. Part 730 et seq.), the U.S. International Traffic in Arms Regulations (22 C.F.R. 120 et seq.), and U.S. economic sanctions and embargoes (codified in 31 C.F.R. Chapter V). Without limitation on the foregoing, Buyer agrees to comply with all relevant laws governing Buyer's purchase, receipt, use, disclosure, and/or re-export of any goods (including any hardware, software or technology) provided to it under this agreement. This provision shall survive the termination of this agreement.

19. **Waiver of Immunity.** Each party unconditionally and irrevocably agrees that the entering into and performance by it of this Contract constitute private and commercial acts rather than public or governmental acts, and agrees that, in the event any legal proceedings are brought against it or its assets in relation to this contract, no immunity (sovereign or otherwise) from such legal proceedings shall be claimed by it, or on behalf of it, or with respect to its assets. Each party hereby waives any such rights of immunity (sovereign or otherwise) which it or its assets now have or may acquire in the future, to the maximum extent permitted by the applicable laws.