



#### 4) Prices and payment

Prices are subject to revision without notice in accordance with conditions existing on the invoicing date. Seller reserves the right to make any corrections to prices quoted due to clerical errors or omission. All prices are stated in United States dollars and Buyer will make all payments in United States dollars drawn on a bank located in the United States or international wire transfers.

All Products are invoiced upon shipment in accordance with the Order. All invoices are due within thirty (30) days of invoice date. All quoted prices are exclusive of tax, export or import charges, transportation or insurance charges, and customs and duty fees, all of which are Buyer's responsibility to pay.

If Buyer fails to pay any amount under an Order when due, the total remaining amount under the Order becomes immediately due and payable without any action by Seller and Seller has the right to suspend all other Orders without prejudice to any other rights or action. Buyer is liable to Seller for all costs of collection of past due amounts and enforcement of Seller's rights, including attorney fees, court costs, witness fees, travel and lodging, etc.

Buyer grants Seller a purchase money security interest in each Product delivered to Buyer until payment is made in full to Seller for such Product. Upon request, Buyer will cooperate with Seller in perfecting such security interest. Buyer grants the Seller the right to enter Buyer's premises and retake all or any Product for which payment is in default, without notice or demand, unless Seller has accepted in writing satisfactory payment terms for the amount in default. Buyer agrees to make all such Product available, shipping ready, for Seller, within five (5) days of receiving notice from Seller of its intention to retake the Product.

Seller has the continuing right to review Buyer's credit and change the payment terms, and at any time may require advance payment, satisfactory security such as a confirmed irrevocable letter of credit, or other guarantee of prompt payment prior to shipment of Product. Interest will accrue at the rate of two percent (2%) per month (or the highest legal limit) on any overdue payments beginning on the date on which the payment was due.

Seller is entitled to apply Buyer's payments first to pay any amounts owed, including interest, late charges, costs of collection, etc. Buyer has no right to offset or suspend any of its payment obligations to Seller. Buyer has no right to cancel any Order if Buyer is in default of payment of any amount to Seller. If Buyer does not fulfill its payment obligations to Seller completely or within the applicable payment period, Seller will be entitled to suspend its obligations to Buyer completely and/or not to perform them.

#### 5) Delivery and storage

All sales are made "F.O.B. Factory" (Incoterms 2022).

Risk of loss passes to Buyer upon applicable Incoterm. Title to Product passes to Buyer only upon Seller's receipt of payment in full for the Order, including all interest, late fees, and penalties.

Delivery is made freight collect and Buyer is responsible for all Seller's costs for packing, shipping, insurance, customs and special packaging. Seller has the right to make partial deliveries.

Any Order by installments or repeat Order is subject to the agreed on quotation. Each installment Order is subject to partial invoicing.

## 6) Time for delivery

Shipping times are established when Seller accepts the Order. Any specific shipping date designated in writing signed by the Seller will be interpreted as estimated and in no event will dates be construed as falling within the meaning of “time is of the essence”. Seller is not responsible for any delays in filling Orders or for any loss or damages resulting from such delays. Late or delayed delivery is not a basis for Buyer to cancel an Order.

## 7) Acceptance and return of product

Buyer’s acceptance of Product is deemed to occur upon Delivery. Buyer is responsible for giving prompt written notice of identified damage or nonconformance of Product. Buyer must inspect the condition of the packaging and the Product upon receipt and indicate any evident damage to the carrier on the delivery note, have the carrier’s agent sign the document and, within two (2) days of receipt of the damaged or non-conforming Product, send all documents by e-mail or fax to Seller’s facility from which Product was shipped, together with the carrier’s references. Buyer must make claims for concealed Product damage directly to the carrier and must also provide Seller with written notice and a copy of any such claim within three (3) days of Buyer’s receipt of the affected Product. Buyer must notify Seller within two (2) days of receipt of incorrect Product. If Buyer retains the Product without giving notice within the designated notice period, Buyer is deemed to have waived its right to reject the Product. Regardless of notification set forth in this section, for notice to be effective, all notices to Seller must be sent to Seller by registered letter with return receipt and received by Seller within five (5) days of Buyer’s receipt of Product.

Buyer has no right to cancel any accepted Order or return any conforming Product without Seller’s written consent, which may be withheld in Seller’s sole discretion. Any return shall be under the exclusive liability and at the full expense of the Buyer. Product that has been damaged due to acts of Buyer is not eligible for refund or exchange. All Product must be returned in original or equivalent packaging. Product received by Seller but not eligible for return will be sent back to Buyer freight collect. For approved returns Seller will provide a credit equal to the lesser of the Product’s invoice price or its current replacement value, less shipping, handling, and restocking fees.

## 8) Intellectual and industrial property – Confidentiality

Seller reserves all rights in the Products not specifically granted to Buyer under these Terms.

Buyer agrees that all intellectual, proprietary, and industrial property rights to, ownership of, and interest in all Product and all associated and related patents, know-how, software, trademarks, trade names, logos, distinctive marks, designs, drawings, plans, technology, engineering details, and other materials created and/or made available by Seller and its parent, subsidiaries, affiliates, and related companies, , including any and all applications for or registrations of any of the foregoing (collectively, “Seller Property”), are vested exclusively in Seller.

Buyer shall not reproduce, adapt, transfer, grant, assign, license, or use the Seller Property or otherwise act as maker of and/or party entitled to such rights, except in accordance with these Terms. Buyer will take reasonable precautions to prevent unauthorized access and use of the Seller Property by third parties. To the extent permitted by relevant law, Buyer will not and will not allow any third party to copy,

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decompile, disassemble or otherwise reverse engineer any Product, or attempt to do so. Buyer is prohibited from, and will prevent any third party from, removing, covering, or altering any of Seller's patent, copyright or trademark notices placed on, embedded in, or displayed by the Product or their packaging and related materials.

**9) Limited warranty**

Unless the limited warranty included with a Product provides different warranty rights or disclaims all warranties, Seller warrants exclusively to Buyer that the Product is designed and manufactured be free from defects in material and workmanship for a period of twelve (12) months from the date of Shipment.

Provided Seller receives a valid warranty claim within five (5) days of Buyer discovering the alleged defect and the Product is within the warranty period, as determined by Seller in its sole discretion, Seller's liability and Buyer's exclusive remedy, to the extent permitted by law, under any theory of liability, is limited, at Seller's option, to replacing, repairing, correcting, or issuing credit for such defective Product. At Seller's request and as a condition to Seller's obligations under the warranty, Buyer will provide all evidence of the alleged defect. The repair, replacement, or correction of all or part of the Product during the warranty period will not extend the warranty period from the original date of shipment. If Seller provides Buyer with any replacement Product, the defective items returned to Seller will become Seller's property.

Seller has no obligation to provide the limited warranty unless Buyer has fully paid all amounts due to Seller through the date on which Buyer makes a warranty claim.

The foregoing limited warranty only applies if and to the extent that (a) the Product is properly and correctly installed, configured, interfaced, maintained, stored, and operated in accordance with Seller's applicable documentation and specifications, and (b) the Product is not modified or misused.

For use of Products with "critical applications," Buyer shall contact Seller beforehand to confirm the ability of the Product to meet the Buyer's stated level of safety, performance, and reliability. "Critical applications" notably include life support systems, medical applications, commercial transportation, nuclear facilities, or any other applications or systems where failure of the electrical supply is likely to cause substantial harm to persons or property. Use of any Product for any critical application is at Buyer's sole risk and liability. The limited warranty excludes:

- (1) Use of the Product for any Critical Application;
- (2) Scratches, marks or other visible surface wear on the Product, unless Seller is notified as soon as the Product is received by the end-user and within the warranty period;
- (3) Normal wear and tear from everyday use;
- (4) Misuse or abuse by the end-user;
- (5) Physical damage to the Product as a result of tampering, mishandling, neglect, unreasonable use and/or negligence, accidental damage, or exposure to environmental conditions for which the Product is not intended;
- (6) Modification or repair without the approval of Seller;
- (7) Defect due to any material supplied by Buyer or due to a design imposed by it;
- (8) Equipment with which the product is integrated.

**10) Warranty disclaimer**

THE FOREGOING LIMITED WARRANTY TERMS ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES OF SELLER ARISING OUT OF, OR IN CONNECTION WITH, SELLER'S PRODUCT AND STATES SELLER'S ENTIRE LIABILITY AND BUYER'S EXCLUSIVE REMEDIES RELATING TO PRODUCT AND SOFTWARE.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THESE TERMS, PRODUCT ANY ACCOMPANYING DOCUMENTATION ARE PROVIDED "AS-IS" AND WITHOUT EXPRESS OR IMPLIED WARRANTY OR CONDITION OF ANY KIND, BY SELLER, OR ANY OTHER PARTY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE, AND NONINFRINGEMENT, OR AS MIGHT ARISE BY IMPLICATION, OPERATION OF LAW, CUSTOM OF TRADE OR COURSE OF DEALING.

SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON THE DURATION OR THE EXCLUSION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT APPLY OR FULLY APPLY. IF BUYER IS A RESELLER OF PRODUCT, BUYER WILL NOT MAKE OR PASS ON TO ITS OWN CUSTOMERS ANY WARRANTY, CONDITION, OR REPRESENTATION ON BEHALF OF SELLER OTHER THAN, OR INCONSISTENT WITH, THE APPLICABLE LIMITED WARRANTY IN THE PRODUCT PROVIDED TO BUYER UNDER THESE TERMS. IMPLIED WARRANTIES IN JURISDICTIONS WHERE THEY ARE PROHIBITED BY LAW FROM BEING DISCLAIMED WILL BE IN EFFECT ONLY FOR THE DURATION OF THE EXPRESS WARRANTY SET FORTH HEREIN.

### 11) Limitation of liability

The entire liability of Seller and for any and all claims arising out of or related to these terms or Product, is strictly limited to the obligations stated in these terms and, in any event, is limited to direct and foreseeable physical and material damage in an amount not to exceed the amount actually paid by buyer to Seller for the Product causing such damage.

Seller will not be liable under any circumstances for any non-physical, punitive, liquidated, incidental, consequential, or special damages, or any other damages, or for any lost profit, lost revenue, lost data, lost use of Product or any associated equipment, costs of cover, downtime, or labor costs, arising out of or related to (i) the sale, provision, use, or installation of Product (ii) Product being incorporated into or becoming a component of other products, (iii) breach of these terms, (iv) Seller's negligence or gross negligence, or (v) any other cause whatsoever, whether based on warranty (expressed or implied) or otherwise based on contract or on tort, or any other theory of liability, and regardless of any advice or representations that may have been rendered by Seller, concerning the sale, use or installation of Product.

BUYER AGREES THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR SELLER'S FULFILLMENT OF ITS OBLIGATIONS UNDER THESE TERMS, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL, OR SPECIFIED OTHER DAMAGES, OR ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY, OR MAY NOT FULLY APPLY TO BUYER. ANY CONTRARY PROVISION AGREED BY BUYER WITH ANY THIRD PARTY OR USER OF THE PRODUCTS WILL NOT BIND SELLER.

### 12) Indemnification

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To the maximum extent allowed by law, Buyer and its parent, subsidiaries, affiliates and related companies, and their respective predecessors, past and present officers, directors, shareholders, agents, employees, legal representatives, successors and assigns (the "Indemnifying Parties") assume liability for, and shall pay when due, and shall indemnify, reimburse and hold Seller, and their respective predecessors, past and present officers, directors, shareholders, agents, employees, legal representatives, successors and assigns (the "Indemnified Parties") harmless from and against any and all Claims (defined below), directly or indirectly relating to or arising out of (i) the acquisition, use, purchase, shipment (including delayed shipment or failure to ship), transportation, delivery, lease or sublease, ownership, operation, possession, control, storage, return or condition of Product (regardless of whether the applicable Product is at the time in the possession of any of the Indemnifying Parties), (ii) the falsity of any representation or warranty of Buyer at any time, (iii) any allegation that by using materials made available by Buyer, Seller have infringed the intellectual property rights of any third party, or (iv) Buyer's breach of these Terms. The foregoing indemnity shall include, without limitation, any claim for negligence, gross negligence, or liability in tort.

"Claims" means any and all liabilities, losses, damages, actions, suits, demands, claims of any kind and nature and all costs and expenses whatsoever to the extent they may be incurred or suffered by the Indemnified Parties (including, without limitation, reasonable attorneys' fees and expenses), fines, penalties (and other charges of applicable governmental authorities), damage to or loss of use of property (including, without limitation, consequential or special damages to third parties or damages to Buyer's property), or bodily injury to or death of any person(s) (including, without limitation, any agent or employee of Buyer, user of Product, or any other person).

**13) Insurance**

Both parties will maintain insurance with industry standard minimum coverages

**14) Force majeure**

A Party shall be excused from performance of any of its obligations under these Terms, other than the obligation to make any payments due, to the extent that, and for such period of time as, such Party is prevented in whole or in part from performing such obligations due to the occurrence of a Force Majeure Event. The Party claiming a Force Majeure Event shall (a) provide written notice to the other Party of the occurrence of the Force Majeure Event within three (3) days after the initial occurrence thereof, which written notice shall include an estimation of the expected duration of the Force Majeure Event and the impact on such Party's obligations hereunder and (b) exercise commercially reasonable efforts to resume the performance of its obligations hereunder and to mitigate or limit the impact of its nonperformance on the other Party. In the event a Force Majeure Event continues for a period of ninety (90) days, either Party shall have the right to terminate this Agreement by written notice to the other Party. As used herein, "Force Majeure Event" means any event of circumstance, or combination of events or circumstances, meeting the following criteria: (i) such event or circumstance arises after or was not foreseeable on the Effective Date, (ii) is beyond the reasonable control of the Party claiming the Force Majeure Event, (iii) is not reasonable avoidable or could not have been prevented by the use of reasonable and diligent efforts by the Party claiming the Force Majeure Event and (iv) actually prevents or delays the performance by the Party claiming the

Force Majeure Event of its obligations under this Agreement. Subject to the foregoing criteria, Force Majeure Events may include the following: (1) war, revolution, riot, act of terrorism, civil disturbance, expropriation, confiscation or nationalization; (2) blockades, embargoes or sanctions (but excluding, for the avoidance of doubt, the imposition of taxes, duties and tariffs); (3) port of entry closure, rationing or allocation, at the request or insistence of any Government Entity; (4) any emergencies declared by any Government Entity requiring shutdown or forced curtailment of the Project; (5) fire, explosion, earthquake, volcano, tornado, tidal wave, or abnormally severe weather conditions at a Facility; (6) worldwide, national or regional labor disputes; or (7) pandemics or epidemics.

## **15) Export control**

Buyer may not use or otherwise export or re-export any Product except as authorized by the laws of the United States of America. In particular, but without limitation, the Product may not be exported or re-exported in violation of export laws, including if applicable export or re-export into any US-embargoed countries or to anyone on the US Treasury Department's list of Specially Designated Nationals or the US Department of Commerce Denied Person's List or Entity List. Buyer represents and warrants that it is not located in any country or on any list where the provision of Product to Buyer would violate applicable law. Buyer also agrees not to use or enable use of any Product for any purposes prohibited by applicable law or export or re-export any Product with knowledge that it will be used in the design, development, production or use of chemical, biological, nuclear or ballistic weapons. Laws and regulations change frequently. It is Buyer's responsibility to know the law pertaining to export/import procedures in the country of destination of the Product.

## **16) Default**

Seller reserves the right by written notice of default to cancel or indefinitely suspend an accepted Order and to refuse additional Orders if: (i) Buyer defaults in performing any obligations under these Terms, (ii) Buyer ceases business operations or enters into any bankruptcy, insolvency, receivership or like proceeding not dismissed within thirty (30) days, or assigns its assets for the benefit of creditors, or (iii) where Buyer requires third-party financing in connection with Buyer's Orders, Buyer fails to acquire such financing in a timely manner on terms Seller finds satisfactory.

## **17) Compliance with local, state, and federal law**

Buyer undertakes, represents, and warrants, for and on behalf of Seller, to comply with all regulatory or legal provisions whether present or future in relation to the collection, treatment, and elimination of electrical and electronic equipment. Buyer agrees to comply with all local, state and federal laws governing the treatment, disposal, and cleanup of hazardous waste that may be a by-product of Seller's products. Seller assumes no responsibility whatsoever for loss or damage resulting from Buyer's inability to conform to any and all applicable laws. In the event that Seller is unable to comply with any regulatory U.S. requirements governing Seller's products for any reason, and in particular, if the UL certification is hampered, Seller reserves the right, without any liability to Buyer, to terminate these Terms, any other contract between Seller and Buyer, or suspend indefinitely its obligations under these Terms or any other contract between Seller and Buyer.

**18) Entire agreement**

No waiver, modification, or addition to these Terms or any assignment of Buyer’s rights or obligations under them is valid or binding on Seller unless in writing and signed by Seller’s authorized representative. These Terms are the entire agreement between Buyer and Seller for sale or provision of Product and Software.

**19) Non-assignment**

These Terms and Buyer’s rights and obligations hereunder may not be assigned or delegated, in whole or in part, including by way of any change of control through transfer or sale of a controlling interest in Buyer’s equity, sale of assets, or otherwise, without the prior written consent of Seller. Any assignment or delegation in violation of this section will be null and void. Subject to the foregoing, these Terms will be binding upon and will inure to the benefit of the parties and their permitted successors and assigns.

**20) Severability; Precedence**

Each provision of these Terms shall be considered severable if any provision or provisions hereof are determined to be invalid and contrary to law. To the extent permitted by law, such invalidity will not impair the operation of or affect those portions of this agreement which are valid. If there is any conflict between these Terms and the quotation accepted by Seller or any Commercial Order Terms accepted by Seller, order of precedence will be: the quotation, the Commercial Order Terms, these Terms.

**21) Applicable law, settlement of disputes**

These Terms and any dispute, claim or controversy arising therefrom, or in connection with any Product (each a “Dispute”) shall be governed by the laws of the Commonwealth of Massachusetts, without reference to “conflict of laws” principles and without reference to the United Nations Convention on Contracts for the International Sale of Goods. Buyers agrees and irrevocably submits to the exclusive personal jurisdiction of the federal and state courts located in Suffolk County in the Commonwealth of Massachusetts for the resolution of all Disputes. No Dispute may be brought by Buyer more than one (1) year after such cause of action accrued. Buyer and Seller agree to first attempt to resolve any Dispute through negotiation before bringing any action in court.