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**1. CONDITION OF SALE:** These Standard Terms and Conditions are the only terms and conditions applicable to any sale or license hereunder. Any additional or different terms or conditions, whether in the form of a prior quotation, correspondence, customer purchase order or any other communication between Seller and Customer or from Customer, are objected to by Seller and shall not be effective or binding unless expressly assented to in writing by an officer of the Seller. Sales confirmation, acceptance of order or similar form by Seller constitutes an expression of acceptance of such purchase order but any such acceptance is expressly conditioned upon Customer's assent to the Standard Terms and Conditions of Sale set forth herein. Customer's assent will be deemed given unless notice to the contrary, sent certified mail, return receipt requested, is received by Seller within ten days from the date of the sales confirmation date.

**2. TERMS OF PAYMENT:** Unless otherwise agreed, terms are F.O.B. shipping point, net 30 days from date of Seller's invoice in U.S. currency, or export shipments for which Seller may require other arrangements. If any payment owed to Seller hereunder is not paid when due, it shall bear interest, at a rate to be determined by Seller which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is paid. Seller shall have the right, among other remedies, either to terminate the Agreement or to suspend further deliveries under this and/or other agreements with Buyer in the event Buyer fails to make any payment hereunder when due. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorneys' fees.

**3. PRICE:** All prices published by Seller or quoted by Seller's representative may be changed at any time without notice. All prices are subject to adjustment on account of specifications, quantities, raw materials, cost of production, shipment arrangements or other terms or conditions which are not part of Seller's original quotation.

**4. DELIVERY, CANCELLATION OR CHANGES BY BUYER:** All shipping dates are approximate and are based upon Seller's prompt receipt of all necessary information from Buyer to properly process the order. Seller will have the right, at its election, to make partial shipments of products, and to invoice each shipment separately. Seller reserves the right to stop delivery of Products in transit or to withhold shipments in whole or in part if Buyer fails to make any payment to Seller when due or fails to perform its obligations hereunder. All shipping dates are approximate only, and Seller will not be liable for any loss or damage resulting from the delay in delivery or failure to deliver which is due to any cause beyond Seller's reasonable control. In the event of a delay due to a cause beyond Seller's reasonable control, Seller reserves the right to terminate the order or to reschedule the shipment within a reasonable period of time and Buyer will not be able to refuse delivery or otherwise be relieved of any obligations as the result of such delay. Orders may not be changed without Seller's written consent and upon agreement by the parties as to an appropriate adjustment in the purchase price thereof. Credit will not be allowed for Products returned without the prior written consent of the Seller.

**5. TITLE AND RISK:** Notwithstanding the trade terms indicated above and subject to Seller's right to stop delivery of Products in transit, title to and risk of loss of the Products will pass to Buyer upon delivery of possession of the Products by Seller to carrier.

**6. EXCUSE OF PERFORMANCE:** Seller shall not be liable for delays in performance or for non-performance due to acts of God, war, riot, fire, labor trouble, unavailability of materials or components, explosion, accident, compliance with governmental requests, laws, regulations, orders or actions, or unforeseen circumstances or causes beyond Seller's reasonable control. Under no circumstances shall Seller have any liability whatsoever for loss of use or for any indirect, incidental or consequential damages as a result of delayed delivery.

**7. TERMINATION AND SUSPENSION BY BUYER:** Buyer may terminate or suspend its order for any or all of the Goods covered by the Agreement, provided that Buyer gives Seller reasonable advance written notice of such termination or suspension and reimburses Seller for all losses, damages, costs and expenses arising directly or indirectly from such termination or suspension. Seller's determination of such termination charges shall be conclusive.

**8. LIMITED WARRANTY:** Seller warrants that the Products will perform substantially in conformance with the Seller's published specifications and be free from defects of material and workmanship, when subject to normal, proper and intended usage for a period of ninety days from the date of purchase. Seller agrees during the warranty period to repair or replace, at Seller's option, defective Products so as to cause the same to operate in substantial conformance with said published specifications. **THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO ANY OF THE GOODS OR SOFTWARE OR SERVICES.**

**9. LIMITATION OF REMEDY AND LIABILITY: SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, CORRECTION OR REPLACEMENT UNDER THE LIMITED WARRANTY CLAUSE IN SECTION 7 IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY OTHER TORT OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS MANUFACTURED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF REVENUE AND COST OF CAPITAL. THE LIMITATION OF REMEDY AND LIABILITY PROVIDED HEREIN SHALL BE EQUALLY APPLICABLE TO ANY AGREEMENT FOR THE PROVISIONS OF SERVICES.**

**10. PATENTS:** Subject to the limitations contained in Section 7 and below, Seller shall defend any suits brought against Buyer based on a claim that the Goods manufactured by Seller or use of the Software constitutes an infringement of a valid patent of the United States, and shall pay any damages awarded therein against Buyer, provided that Buyer:

promptly notifies Seller in writing of the filing of such suit or the threat thereof; permits Seller to control completely the defense or compromise of such claim of infringement; and provides all reasonable assistance and cooperation requested by Seller for the defense of such suit. This obligation to defend shall not apply to any application or use of the Goods specified by the Buyer, and is limited to any claim concerning the actual Goods or Software alone. In the event that only the Goods manufactured by Seller (and not, for example, the manner or method of use of the Goods) are held to be infringing in such suit and their use is enjoined, Seller shall, at Seller's option and expense procure for Buyer the right to continue using the Goods, replace them with a non-infringing product or modify them so they become non-infringing. Buyer agrees that Seller shall not be liable for infringement, and that Buyer shall fully indemnify Seller therefor, if infringement is based upon the use of Goods in connection with goods not manufactured by Seller or in a manner for which the Goods were not designed by the Seller or if the Goods were not designed by the Seller or if the Goods were designed by the Buyer or were modified by or for the Buyer in a manner to cause them to become infringing.

**11. TAXES:** Any tax or governmental charge or increase in same hereafter becoming effective increasing the cost to Seller of producing, selling, or delivering the Goods or of procuring material used therein, and any tax now in effect or increase in same payable by the Seller because of the manufacture, sale or delivery of the Goods, may at Seller's option, be added to the price herein specified.

**12. GENERAL PROVISIONS:** (a) Buyer shall not assign its rights or obligations under the Agreement without Seller's prior written consent. (b) There are no understandings, agreements or representations, express or implied, not specified in the Agreement. (c) No action, regardless of form, arising out of transactions under the Agreement, may be brought by either party more than two (2) years after the cause of action has accrued. (d) Any modification of these terms and conditions must be set forth in a written instrument signed by a duly authorized representative of Seller. (e) The Agreement is formed and shall be construed, performed and enforced under the laws of the State of New York. Buyer and Seller agree that the proper venue for all actions arising under the Agreement shall be only in the State of New York. (f) Should any clause, sentence or part of these Standard Terms and Conditions of Sale be held invalid, such holding shall in no way affect the validity of the remainder, which shall remain in full force and effect and such a finding, shall not constitute a waiver or preclude subsequent enforcement thereof.