



### Terms and Conditions

**AGREEMENT.** This Sales Order constitutes the terms and conditions by which Purchaser is purchasing the described products (“Products”) from Seller. If there is any conflict between this Sales Order and any Purchase Order delivered by Purchaser, the terms of this Sales Order shall control.

**PRICING.** If the shipment date of the Products is not within 90 days of the date of this Sales Order, all prices set forth herein are subject to adjustment by Seller in accordance with its pricing policies in effect at the time of shipment.

**SALES AND SIMILAR TAXES.** Purchaser shall promptly pay the amount of any present or future sales, use VAT, excise, or other similar tax (and all applicable interest and penalties) applicable to the sale of the Products hereunder, whether such amount is specified in this Sales Order, subsequently determined or recalculated. In lieu thereof, Purchaser shall provide Seller with a tax exemption certificate acceptable to the taxing authorities.

**PAYMENT TERMS: UCC SECURITY INTEREST.** Purchaser represents that it is not insolvent as that term defined in California Commercial Code 1201 (23). If Purchaser becomes insolvent before delivery of the Products, Purchaser shall notify Seller. A failure to notify Seller shall be construed as a reaffirmation of Purchaser’s solvency at the time of delivery. Standard payment terms after credit approval by Seller are net 30 days after the original Product shipment dates. However, if credit approval is not granted or if Seller thereafter determines in its sole discretion that full payment by Purchaser on a timely basis is not assured, Seller reserves the right to demand at any time that Purchaser provide assurance of full payment by repaying the purchase price, providing a letter of credit, posting a penalty bond issued by a competent surety company or such other manner as may be determined by Seller in its sole discretion. Each Product shipment will constitute a separate and independent transaction. Purchaser grants a UCC security interest to Seller in all shipped Products to secure payment of the purchase price and all other amounts due Seller and authorizes Seller to file financing statements with respect to such security interest. Delinquent payments will accrue interest at one percent per month, but not to exceed the maximum amount permitted by law, until paid in full.

**PACKAGING; SHIPMENT; INSURANCE; RISK OF LOSS.** Seller shall provide at its expense commercial packaging adequate under normal conditions to identify and protect the Products during shipment by regular commercial carrier. Purchaser may request special packaging at its extra expense. Purchaser shall pay all freight and unloading costs. Unless Purchaser requests special carriers or methods of shipment, Seller shall ship Products to Purchaser by regular commercial carrier. Any shipment dates specified in this Sales Order are approximate dates only and Seller has the right to adjust the shipment dates as it deems appropriate. Unless Purchaser requests specific insurance coverage or specific valuation amounts, Seller shall specify shipment without insurance coverage and at minimum valuation amounts. Purchaser shall pay all insurance costs. Shipments shall be made EXW.

**ORDER CANCELLATION/ CHANGES.** Product shipments cannot be rescheduled, cancelled, or changed by Purchaser within quoted lead times. Any requests inside of the quoted lead time must be approved prior to shipment in writing from Seller. Seller reserves the right to ship to its order and make collection by sight draft with bill of lading attached.

**FORCE MAJEURE.** Performance by Seller will be excused without liability during any period that performance is prevented or delayed by causes beyond the reasonable control of Seller.

**ACCEPTANCE OF PRODUCTS.** As soon as Products are delivered to Purchaser, Purchaser shall inspect the Products. Notice in writing shall be given within 48 hours after receipt of Products of any defects or omissions. The failure of Purchaser to give notice within 48 hours after receipt shall constitute an irrevocable acceptance of the Products and no attempted revocation of acceptance thereafter shall have any effect whatsoever. If any Products are rejected, Purchaser shall hold the Products at Purchaser’s place of business until Seller has been notified in writing of the rejection and has had a reasonable opportunity to arrange for suitable transportation.

**LIMITED WARRANTIES: WARRANTY DISCLAIMER.** Seller warrants only to Purchaser that the Products will comply with Product specifications contained in this Sales Order (or, if none are contained, in Seller’s current catalog or any supplement or amendment thereto) and that the Products will operate properly under proper use and normal conditions without defects in parts or labor that prevent such operation for a period of 1 year after the individual product shipment dates. Warranty shall only apply to production released devices. NO OTHER WARRANTIES ARE GIVEN AND NO AFFIRMATION BY SELLER, BY WORDS OR ACTION, WILL CONSTITUTE A WARRANTY. SELLER DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES THAT THE PRODUCTS ARE MERCHANTABILITY OR THAT THE PRODUCTS ARE FIT FOR A PARTICULAR USE OR PURPOSE, EVEN IF THE PARTICULAR USE OR PURPOSE IS DISCLOSED TO SELLER IN ADVANCE.

**LIMITED REMEDIES FOR BREACH OF WARRANTY.** Defective Products may be returned to Seller freight prepaid only after obtaining a Return Material Authorization (RMA) number. If after testing and inspection any such returned Product is determined by Seller





to be defective, Seller shall promptly repair or replace the Product and return it to Purchaser freight prepaid. PURCHASER HAS NO OTHER REMEDY FOR BREACH OF WARRANTY OR FAILURE TO MEET PRODUCT SPECIFICATIONS.

LIMITATION OF LIABILITY AND DAMAGES. Seller shall not be liable for injury to any person or property and in no event shall seller be liable for any direct or indirect consequential, incidental, or special damages.

INDEMNITY BY PURCHASER. Purchaser shall defend, indemnify and hold Seller harmless against any claims that are based upon any subsequent resale of Products by Purchaser, any sales by Purchaser of any of its products or any use of such products of the Purchaser.

PATENT AND TRADEMARK INFRINGEMENT DEFENSE AND INDEMNITIES. Purchaser shall defend, indemnify and hold seller harmless against any claims that use or combination of the Products by Purchaser with any material or products not sold by Seller constitutes a violation or infringement of any U.S. or foreign patents covering the use of combination Products by Purchaser, Purchaser shall also defend, indemnify and hold Seller harmless against any claims that manufacture or sales of Products manufactured to Purchaser specifications constitutes a violation or infringement of any U.S. or foreign patents or trademarks. SALE OF THE PRODUCTS BY SELLER CONVEYS NO EXPRESS OR IMPLIED LICENSE UNDER ANY PATENT OWNED OR CONTROLLED BY SELLER.

APPLICABLE LAW: ARBITRATION: TIME FOR BRINGING ACTIONS. California law will exclusively apply to this sales order and its interpretation. All unresolved claims and disputes under this Sales Order shall be settled by arbitration in Los Angeles, California under American Arbitration Association Commercial Rules (including mutual discovery) and judgment upon the arbitration award may be entered and enforced in any competent Court with jurisdiction. Such award shall be final and binding upon both parties. Any action relating to this Sales Order must commence within one (1) year after the cause of action has accrued.

