

TERMS AND CONDITIONS OF SALE BY BUTLER TECHNOLOGIES, INC.

1. ACCEPTANCE

The following Terms and Conditions of Sale ("Agreement") are applicable to Butler Technologies, Inc. ("Seller") quotations to Seller's customer ("Buyer") and remitted purchase orders from Buyers, and are the only conditions applying to sales to Buyer by Seller, of goods and/or services ("Products") except for other conditions which may be mutually agreed upon by the parties, in writing, signed by an officer of Seller. Seller hereby objects to additional or conflicting terms and conditions submitted or to be submitted by Buyer and shall not be deemed to have waived these Terms and Conditions if it fails to object to the conditions appearing in Buyer's purchase order, incorporated by reference, or attached to Buyer's purchase order. Buyer's issuance of a purchase order for Products offered herein shall constitute its acceptance of Seller's Terms and Conditions of Sale.

2. PRICE AND QUANTITIES

Prices quoted are in U.S. dollars and are dependent on Seller making shipment of the quantities ordered. *Overruns or under runs will not exceed 10% of the quantity ordered.* For negotiated contract pricing, shipments must be made within a twelve (12) month period ("Contract Year") following the initial purchase order. If, due to Buyer's lack of order releases, shipments within the Contract Year are below the quantities originally ordered, Seller can issue a bill back invoice to retroactively adjust prices to the quantities actually shipped. If deliveries for the first six months of the Contract Year are not at least thirty percent (30%) of the ordered quantity, Seller can retroactively adjust the unit price to the appropriate higher price.

3. PAYMENT TERMS

Subject to Seller's credit approval of Buyer, payment terms are net thirty (30) days from date of invoice, with no discount allowed for earlier payments unless otherwise agreed to, in writing, by Seller. A service charge of 1-1/2% per month is assessable on past due invoices as of the end of each calendar month and Buyer agrees to pay such charge. If Buyer has not received credit approval from Seller, the terms are cash with order. Buyer agrees to make prompt and full payment of invoices when due and agrees that if Buyer is delinquent in the payment of any amount due, and Seller pursues legal collection, Buyer will pay all of Seller's cost and expenses of collection, including reasonable attorney's fees, together with Seller's service charge upon the delinquent payments, from date of delinquency. Seller has the right, in addition to any other remedy in law or equity, to alter or suspend credit, demand assurances of payment, refuse shipment, or cancel unfulfilled orders when in Seller's opinion, the credit of Buyer has become impaired, or when delivery is delayed by default of Buyer, or when Buyer is delinquent in any payment.

4. SUITABILITY OF USE

It is understood that Buyer has the responsibility to determine the suitability of use of the Products ordered hereunder and the Product's fitness for Buyer's particular purpose. Buyer should thoroughly test any proposed use of Seller's Products and independently conclude satisfactory performance in Buyer's application. If the manner in which Seller's Products are used, sold, or shipped requires government approval, license, or clearance, Buyer has the sole responsibility to obtain same.

5. WARRANTY

Seller's warranty extends for one year from date of shipment on workmanship and material excluding normal wear and tear. Seller warrants only that its Product's will meet the Product's written Specifications of Seller applicable to the Products purchased at the time of sale, except that if Buyer provides Seller with written specifications for the Products, Seller only warrants that its Products will meet Buyer's written specifications. THIS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Except as set forth in Paragraph 6, Buyer's exclusive remedy, and Seller's sole liability, is limited to a refund of the purchase price of, or at the option of Seller, replacement of any Products shown not to meet the specifications.

6. LIMITATION OF LIABILITY

The total liability of Seller on any and all claims, whether in contract, warranty, tort (including negligence or patent infringement) or otherwise, arising out of, connected with, or resulting from the sale of the Products to Buyer shall not exceed the price of the Products or services provided. **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR EXEMPLARY DAMAGES OF ANY KIND OR NATURE INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COSTS OF SUBSTITUTE GOODS, FACILITIES, SERVICES.** If Buyer transfers title to, or leases the Products sold hereunder to, or otherwise permits or suffers use by, any third party, Buyer shall obtain from such third party a provision affording Seller the protections provided in the previous sentence.

7. PRECEDENCE OF SELLER'S TERMS AND CONDITIONS

The Terms and Conditions of Sale as stated herein are accepted by Buyer and shall govern in event of conflict with any terms and conditions of Buyer's purchase order, and are not subject to change by reason of any written or verbal statements by Buyer or by any terms stated in Buyer's purchase order unless made in writing and accepted, in writing, by Seller, over the signature of an officer of Seller.

8. NON-CANCELLABLE

This order is accepted with mutual understanding that, except as provided below, it is not subject to cancellation by Buyer without the written consent of the Seller. Seller may agree to a cancellation request by Buyer, in which case, Seller will charge Buyer a cancellation fee at least equal to the quoted non-recurring engineering and prototype charge, plus an amount equal to three times the costs incurred by Seller for the cancelled order. Such costs include, but are not limited to, material, direct labor, overhead (at Seller's actual overhead rate) and Seller's cost actually paid to Seller's vendors. Title to Products which form the subject matter of a cancelled order agreed to by Seller shall revert to Seller and Seller may sell such Products without accounting to Buyer.

9. DELIVERY RESCHEDULE

Delivery of Products under this Agreement may be rescheduled by Buyer with approval from Seller. Such rescheduling, if approved, shall incur a rescheduling fee, which will be quoted at the time of the reschedule request.

10. PATENTS, COPYRIGHTS AND TRADEMARKS

Seller warrants that any Product designed by and manufactured by Seller and furnished hereunder shall be free of any rightful claim of any third party for infringement of any U.S.A. patent or trademark. Buyer must notify Seller promptly of the receipt of any claim that Seller's Product infringes a U.S.A. patent and give Seller information, assistance and exclusive authority to settle and defend such claim. Seller shall, at its own expense and option, either (i) settle or defend such claim or any suit or proceeding arising therefrom and pay all damages and costs awarded therein against Buyer, or (ii) procure for Buyer the right to continue using such Product, or (iii) modify the

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Product so that it becomes non-infringing, or (iv) replace the Product with a non-infringing product, or (v) remove the Product and refund the purchase price (less reasonable depreciation) and any transportation or installation costs which have been separately paid by Buyer. The foregoing states the entire liability of Seller for patent, copyright or trademark infringement of any Product designed and manufactured by Seller and is subject to the total liability set forth in Paragraph 6.

The preceding shall not apply (i) to any Product or part thereof which is manufactured to Buyer's design or specifications or (ii) to the use of any Product or part thereof furnished hereunder in conjunction with any other apparatus or material. With respect to any Product or part thereof which is manufactured to Buyer's design or specifications, Buyer will, at its own expense, indemnify, defend and hold Seller harmless from any claim or any suit or proceeding in which the Products are alleged to infringe any patent or trademark or copyright.

11. CLAIMS

Claims for non-compliant Products, errors, deficiencies, or imperfections must be made within thirty (30) days after Buyer's receipt of material or they are waived. Products failing to meet Seller's express warranty, as set forth above, will be replaced or, at Seller's option, a credit will be allowed for the price thereof. Products may be returned only after the issuance of a return authorization number by Seller and such return authorization number may appear on the packaging or it will be returned to Buyer at Buyer's expense.

12. FORCE MAJEURE

Manufacture, shipment, and delivery of any Products will be subject to any prohibition, restriction, order, direction, requisition, regulation, or condition imposed by the United States of America, or imposed by or under the authority of any department, board, bureau, instrumentally, or agency acting by or under the authority of the United States of America, or any of its states, and Seller's shall not be liable for any delay or failure to perform, in whole or in part, caused thereby, or due to fires, floods, earthquakes, strikes, wars or hostilities, work stoppages, differences with workmen, accidents, casualties, inability to procure supplies and raw materials, delays in transportation, or caused beyond Seller's control.

13. DELIVERY, PASSING OF TITLE

Delivery of Products shall be made F.O.B. Seller, facility. Title and all cost and risk of loss or damage shall thereafter be borne by Buyer. Whenever freight is collect or is prepaid by Seller, freight shall be charged to Buyer. If freight is prepaid by Seller, in whole or part, Seller shall have the right to select means of transportation. Buyer shall also pay all costs and expense for import duties, export costs and expenses, special packaging and all other shipment costs and may be billed therefore in the event Seller pays or is charged with the same. Buyer agrees not to ship Products outside of the United States without Buyer obtaining an appropriate export or re-export license.

14. SECURITY INTEREST

Seller reserves, and Buyer hereby grants to Seller, a security interest in all Products purchased hereunder and in any proceeds thereof until seller has received payment in full of the purchase price and any other amounts due hereunder. Seller shall have all the rights and remedies of a secured party under the Uniform Commercial Code, and Buyer agrees, at Seller's request, to execute financing statements and to take such other action as Seller may reasonably request to carry out the intent of this Section. Buyer's failure to pay any amounts when due shall give Seller the right to possession and removal of the Products at any time upon Seller's demand. Seller's taking of such possession shall be without prejudice to any other legal remedies Seller may have.

15. NON-WAIVER

No failure of Seller to insist upon strict compliance by Buyer with this Agreement or to exercise any right occurring from any default of Buyer shall impair Seller's rights in case Buyer's default continues or in case of any subsequent default by Buyer. Waiver by Seller of any breach of contract shall not be construed as a waiver of any other existing or future breach.

16. DEFAULT

In case Buyer shall fail to make payments in accordance with this Agreement, Seller, in addition to its other rights and remedies, may, at its option, defer further shipments until such payments are made, cancel buyers open account terms, or terminate the contract with, or without notice, and Buyer shall not have any cause of action or to be entitled to any set off, counterclaim, or recoupment against Seller by reason of any such action.

17. NON-ASSIGNMENT

Any purchase order from Buyer under this Agreement shall not be assigned by the Buyer to any other party without the prior written consent of Seller.

18. SALES TAX

Buyer agrees to pay all applicable taxes (including sales taxes) and duties on this Agreement except for Seller's income taxes. In the event that Buyer certifies that the Products purchased herein are for resale by Buyer and Buyer provides Seller with a copy of Buyer's re-sale certificate, the Buyer need not pay sales tax to Seller.

19. GOVERNING LAW

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Pennsylvania, except for its choice of law provisions.

20. ARBITRATION

Buyer expressly agrees that any controversy or claim arising out of, in connection with or relating to this Agreement, or the interpretation, performance or breach thereof, shall be settled by arbitration in Pittsburgh, Pennsylvania before the American Arbitration Association, or its successors, pursuant to the Commercial Arbitration Rules of the American Arbitration Association, as those Rules may be in effect at the time of such arbitration proceeding, which Rules are hereby deemed incorporated herein and made a part hereof, and under the laws of the Commonwealth of Pennsylvania. The arbitration award shall be final and binding on Buyer and Seller and judgment upon such arbitration award may be entered in the Court of Common Pleas of Butler County, Pennsylvania or in any court having jurisdiction thereof. Buyer expressly consents to the jurisdiction over Buyer of the American Arbitration Association or its successors, and of the Court of Common Pleas of Butler County, Pennsylvania. Buyer agrees that this Agreement shall be deemed to have been made in Pennsylvania and be deemed to be performed there, any reference to the contrary notwithstanding.

21. GENERAL

In the event that any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall continue in full force and effect. The headings of the Agreement are for convenience of reference only and shall not affect the construction of any provision herein.