



TERMS AND CONDITIONS OF SALE

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These terms and conditions govern the sale of Products (“Product or Products”) and provisions of services (“Services”) by Lodestone LLC., dba Digilant and its affiliates (“Seller”) as well as by third party vendors and/or service providers of Seller. These terms and conditions (“Agreement”) take precedence over Buyer’s supplemental or conflicting terms and conditions to which notice of objection is hereby given. Neither Seller’s commencement of performance or delivery shall be deemed or construed as acceptance of Buyer’s supplemental or conflicting terms and conditions. Lodestone LLC., dba Digilant’s failure to object to conflicting or additional terms will not change or add to the terms of this agreement. Buyer’s acceptance of the Products and/or Services from Seller shall be deemed to constitute acceptance of the terms and conditions contained herein.

1. Orders: All orders placed by Buyer are subject to acceptance by Seller. A hard copy (or electronic copy) of the PO is required by the Seller prior to acceptance. Orders may not be cancelled or rescheduled without Seller’s written consent. All orders must identify the products, unit quantities, part numbers, applicable prices and requested shipment dates and shipment method of the Products being purchased. Orders can have multiple deliveries and be scheduled up to 6 months in the future, with any remaining balance shipped on the order expiration date. Any scheduled orders or releases that are rescheduled by the Buyer are subject to prevailing Product lead times and will be confirmed to the Buyer when the reschedule is requested. Scheduled orders cancelled before the completion of the full quantities quoted are subject to invoicing and bill back at the prevailing price for a lesser quantity. Upon written approval by Seller, the Buyer may return compliant Product to Seller provided all transportation, duties, insurance and tax are paid by Buyer, and Buyer is subject to a restocking charge determined by Seller prior to the return of the Product. Seller may in its sole discretion allocate Product among its Customers. Seller may designate certain Products and Services as non-cancelable, non-returnable and the sale of such Products shall be subject to the special terms and conditions contained in Seller’s Customer Acknowledgement, which shall prevail and supercede any inconsistent terms and conditions contained herein or elsewhere.

2. Prices: The prices of the Products are those prices specified on the front of the invoice. Pricing for un-delivered Products may be increased in the event of an increase in Seller’s cost, change in market conditions or any other causes beyond the Seller’s reasonable control. Price quotations shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the quotation.

3. Custom Tooling/Non Catalog Items: Custom tooling for non-catalog items can be subject to tooling, engineering and/or setup charges identified at the time of the quote and invoiced as separate line items. Product cost will be quoted as a separate item. Buyer must provide a drawing of the custom non-catalog product that includes a unique drawing number, revision number, concise material descriptions, and non-ambiguous dimensions. The unique drawing number and revision number will be specified with each Seller quote to Buyer. Buyer PO’s for custom non-catalog Products must include a copy of the drawing with the unique drawing number and revision number specified in the quote. Any change of Buyer drawing number or revision number will require a new quote by Seller. Price quotations for custom or non-catalog Products shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the quotation. Custom and non-catalog Products and Services are non-cancelable, non-returnable and the sale of such Products shall be subject to the special terms and conditions contained in Seller’s Customer Acknowledgement, which shall prevail and supercede any inconsistent terms and conditions contained herein or elsewhere.

4. Taxes: Unless otherwise agreed to in writing by Seller, all prices quoted do not include transportation and insurance costs, duties, and all taxes including federal, state and local sales, excise and value added, goods and services taxes, and any other taxes. California sales tax will be applied to any taxable Product unless Buyer provides a valid hard or electronic copy of their California Resale Certificate to Seller prior to shipment. Buyer agrees to indemnify and hold Seller harmless for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes shall appear as separate items on Seller’s invoice.

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5. Payment: All Seller quotes are based on payment by check or money order. Buyer payment may be made by check or money order at no additional charge; credit card or wire transfer payments are subject to additional fees or charges not included in the Seller quote. Any additional credit card or wire transfer fees shall appear as separate items on Seller's invoice. Where Seller has extended credit to Buyer, terms of payment shall be net thirty (30) days from date of invoice, without offset or deduction. On any past due invoice, Seller may impose interest at the rate of one and a half percent [1.5%] per month. If Buyer fails to make each payment when it is due, Seller reserves the right to change or withdraw credit and thereby suspend or cancel performance under any or all purchase orders or agreements in which Seller has extended credit to Buyer. In the event of default by Buyer, Seller shall be entitled to costs, fees, and expenses, including but not limited to recovery of attorney fees, court costs and fees, and collections costs.

6. Delivery and Title: All deliveries will be made "EX WORKS or FOB" place of shipment. Title and risk of loss pass to the Buyer upon delivery of the Product to the carrier. Seller's delivery dates are estimates only and Seller is not liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the Seller, nor shall the carrier be deemed an agent of the Seller. A delayed delivery of any part of an Order does not entitle Buyer to cancel other deliveries. As a service to the Buyer, Common carrier's minimum insurance will automatically be applied to each EX WORKS or FOB delivery and charged to the Buyer unless otherwise stipulated by the Buyer. Additional shipment insurance is at the sole discretion of the Buyer who assumes all the risk of lost, damaged, stolen, delayed, misplaced or any unforeseen event that interferes with delivery of the Product.

7. Acceptance / Returns: Shipments will be deemed to have been accepted by Buyer upon delivery of the said shipments to Buyer unless rejected upon receipt. Buyer shall perform all inspections and tests Buyer deems necessary as promptly as possible but in no event later than 14 calendar days after delivery of product, at which time Buyer will be deemed to have irrevocably accepted the Products. Seller's standard catalog and published specifications shall be the definitive record of product attributes, materials, size and tolerances unless otherwise expressly stated by Seller in writing. Any discrepancy in shipment quantity must be reported within 14 calendar days after delivery. Buyer may not return Products without a return material authorization ("RMA") number. RMAs are valid for 30 days from date issued. Buyer may not return non-cancelable, non-returnable Products. Upon written approval by Seller, the Buyer may return compliant Product to Seller provided all transportation, duties, insurance and tax are paid by Buyer, and Buyer is subject to a restocking charge determined by Seller prior to the return of the product.

8. Limited Warranty: Seller will transfer to Buyer any Product warranties and indemnities authorized by the manufacturer, including any transferable warranties and indemnities for intellectual property infringement. Seller warrants to Buyer that Products purchased hereunder will conform to the applicable manufacturer's specifications for such products and that any value-added work performed by Seller on such Products will conform to applicable Buyer's specifications. If Seller breaches this warranty, Buyer's remedy is limited to (at Seller's election); (1) refund of Buyer's purchase price for such Production (without interest), (2) Seller repair of such Products, or (3) replacement of such Products; provided that such Products are returned to Seller, along with acceptable evidence of purchase. No warranty will apply if the Product has been subject to misuse, static discharge, neglect, accident or modification, or has been soldered. SAVE AS EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS, ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS (WHETHER STATUTORY OR OTHERWISE) ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. IN PARTICULAR, SELLER MAKES NO WARRANTY RESPECTING THE MERCHANTABILITY OF THE PRODUCTS OR THEIR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND WARRANTIES AGAINST LATENT DEFECTS.

9. Limitation of Liabilities: BUYER SHALL NOT BE ENTITLED TO, AND SELLER SHALL NOT BE LIABLE FOR, LOSS OF PROFITS OR REVENUE, PROMOTIONAL OR MANUFACTURING EXPENSES, OVERHEADS, BUSINESS INTERRUPTION COST, LOSS OF DATA, REMOVAL OR REINSTALLATION COSTS, INJURY TO REPUTATION OR LOSS OF BUYERS, PUNITIVE DAMAGES, IPR INFRINGEMENT, LOSS OF CONTRACTS OR ORDERS OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE. BUYER'S RECOVERY FROM SELLER FOR ANY CLAIM SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE AFFECTED PRODUCTS IRRESPECTIVE OF THE NATURE OF THE CLAIM WHETHER IN CONTRACT, TORT, WARRANTY, OR OTHERWISE. BUYER WILL INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM ANY CLAIMS BASED ON (a) SELLER'S COMPLIANCE WITH BUYER'S DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS, (b) MODIFICATION OF ANY PRODUCTS BY ANYONE OTHER THAN SELLER, or (c) USE IN COMBINATION WITH OTHER PRODUCTS.

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10. Export Control : Buyer certifies that it will be the recipient of the Products to be delivered by Seller. Buyer acknowledges that the Products are subject to the export/import control laws and regulations of various countries, including the Export Administration Laws of the United States. Products sold by Seller cannot be transferred, sold or re-exported to any part on the Entity List or Restricted Person List of the U. S. Department of Commerce Bureau of Industry and Security, any party designated by the U.S. Treasury Department's Office of Foreign Assets Control, (ITARS) and any party debarred or sanctioned for proliferation or terrorism reasons by the U.S. State Department.

11. Use of Products: Products sold by Seller are not designed, intended or authorized for use in life support, life sustaining, transportation, nuclear, or other applications in which the failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property damage. If Buyer uses or sells the Products for use in any such applications: (1) Buyer acknowledges that such use or sale is at Buyer's sole risk; (2) Buyer agrees that Seller and the manufacturer of the Products are not liable, in whole or in part, for any claim or damage arising from such use; and (3) Buyer agrees to indemnify, defend and hold Seller and the manufacturer of the Products harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use or sale.

12. Force Majeure: Seller is not liable for failure to fulfill its obligations for any accepted Order or for delays in delivery due to causes beyond Seller's reasonable control including, but not limited to, acts of God, natural or artificial disaster, riot, war, strikes, delay by carrier, shortage of raw material, acts or omissions of other parties, acts or omissions of civil or military authority, Government priorities, changes in law, material shortages, fire, floods, epidemics, quarantine restrictions, acts of terrorism, delays in transportation or inability to obtain labor, materials or Products through its regular sources, which shall be considered as an event of force majeure excusing Seller from performance and barring remedies for non-performance. In an event of force majeure condition, the Seller's time for performance shall be extended for a period equal to the time lost as a consequence of the force majeure condition without subjecting Seller to any liability or penalty. Seller may, at its option, cancel the remaining performance, without any liability or penalty, by giving notice of such cancellation to the Buyer in writing.

13. Technical Assistance or Advice: If technical assistance or advice are offered or given to Buyer, such assistance or advice is given free of charge and only as an accommodation to Buyer. Seller shall not be held liable for the content or Buyer's use of such technical assistance or advice nor shall any statement made by any of Seller's representatives in connection with the Products or Services constitute a representation or warranty, express or implied.

14. Intellectual Property: The Product, unique part numbers, descriptions, likeness, and technical information listed in the Seller's catalogs are the exclusive property of the Seller and may not be promoted, copied, wholesaled, or retailed by Buyer or their affiliates without the expressed written approval of the Seller.

15. General: (a) The laws of the State of California will exclusively govern any dispute between Seller and Buyer, (b) Buyer may not assign this Agreement without the prior written consent of Seller. Seller or its affiliates may perform the obligations under this Agreement. This Agreement is binding on successor and assigns, (c) Products, including software or other intellectual property, are subject to any applicable rights of third parties, such as patents, copyrights and/or user licenses.