

MEGTEC SYSTEMS, INC.
TERMS AND CONDITIONS OF SALE FOR
NEW EQUIPMENT SALES

1. GENERAL

All sales between MEGTEC Systems, Inc., ("Seller") and Buyer are subject to the following terms and conditions. Provisions additional to or inconsistent with those contained herein, including without limitation penalty or liquidated damages provisions for late delivery, shall not be binding on Seller unless such provisions are specifically identified and accepted in writing by Seller. Orders shall be binding upon Seller only after acceptance by Seller in writing.

2. WARRANTIES, REMEDIES, AND LIMITATIONS

a. Standard products manufactured by Seller and sold hereunder are warranted to be free from defects in workmanship and material for a period of one year from the date of shipment. During the warranty period, the Seller's liability and Buyer's remedy under this warranty are limited to the repair or replacement, at Seller's option, of products found in Seller's reasonable judgment to have been defective in workmanship or material with the Seller's maximum liability being limited to the original price of the goods. For components or units purchased by Seller, this warranty shall apply only to the extent of the warranty granted by the suppliers thereof. Seller will not pay for travel and living expenses incurred in connection with the repair or replacement, which expenses will be billed to the Buyer at Seller's prevailing rates. This warranty is conditional upon receipt by Seller of written notice of defects within fifteen days after discovery by Buyer within the warranty period. Unless Buyer provides Seller with written documentation of the maintenance performed on the goods, Seller reserves the right not to honor a warranty claim. This warranty does not cover any defects or failures due to (i) negligence, accidents, abuse, improper operation, improper maintenance, improper electrical/mechanical interfacing of Seller products with other products, electrical failure, or abnormal conditions of moisture, temperature, dirt, and corrosive matter, (ii) products tampered with or altered, modified or repaired by anyone not previously approved by Seller, (iii) products damaged in shipment or otherwise without Seller's fault. This warranty does not include the cost of any labor or expenses incurred for the adjustment of products sold hereunder. Transportation charges and risk of loss for allegedly defective products will be assumed by Seller only if returned by Buyer in strict accordance with written instructions from Seller. Replacement parts and charges associated with their replacement will be charged to the customer until defective parts are returned prepaid, accompanied by an Authorized Return of Goods Tag, to Seller's plant in De Pere, Wisconsin. If, in the opinion of Seller, the parts are found to be defective, then credit will be given to the Buyer for the replacement parts. This warranty does not apply to experimental, developmental or non-standard products which are sold "as is".

b. Seller warrants that the products sold hereunder will not in and of themselves infringe any patent of the United States of America. Seller's liability under this warranty is limited to Seller's defense of any suit or proceeding brought against Buyer based on a claim that any Seller product sold hereunder when employed in the manner intended by Seller constitutes an infringement of any patent of the United States. Seller's liability hereunder is conditioned upon Buyer's giving prompt written notice of any such claim made against Buyer, all such information available to Buyer and such assistance as required by Seller in respect to such claim and Buyer's granting to Seller exclusive control of the settlement and litigation of any such suit, proceeding or claim. If Buyer's use of the product in the manner intended by Seller is finally enjoined, Seller shall at

its option: (i) procure for Buyer the right to continue using the product, (ii) replace same with a non-infringing product, (iii) modify the product so it becomes non-infringing but equivalent or (iv) remove the product and refund the purchase price (less allowance for use, damage and obsolescence). In no event will Seller be liable for any patent infringement based on the use of the product for a purpose other than that for which it is sold by Seller. Seller makes no warranty against patent infringement resulting from products made to Buyer's specification or the use of the product in combination with other products or in the practice of any process and if a claim, suit or action is based thereon Buyer shall defend, indemnify and save Seller harmless therefrom.

c. Seller warrants to Buyer that it will convey good title to the goods sold hereunder. Seller's liability and Buyer's remedy under this warranty are limited to the removal of any title defect or, at the election of Seller, to the replacement of the goods or any part thereof which are defective in title; provided, however, that the rights and remedies of the parties with respect to the patent infringement shall be limited to the provisions of paragraph (b) above.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE GIVEN AND ACCEPTED IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS. THE REMEDIES OF BUYER FOR ANY BREACH OF WARRANTY SHALL BE LIMITED TO THOSE PROVIDED HEREIN, AND FOR DELAY OR NONDELIVERY WHICH IS NOT EXCUSABLE SHALL BE LIMITED TO THE PURCHASE PRICE OF THE GOODS IN RESPECT OF WHICH THE DELAY OR NONDELIVERY IS CLAIMED, TO THE EXCLUSION OF ANY AND ALL OTHER REMEDIES. IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF USE OR PROFITS. NO AGREEMENT VARYING OR EXTENDING THE FOREGOING WARRANTIES, REMEDIES OR THIS LIMITATION WILL BE BINDING UPON SELLER UNLESS IN WRITING SIGNED BY A DULY AUTHORIZED OFFICER OF SELLER.

3. DELIVERY AND FREIGHT; RISK OF LOSS

Title to and risk of loss of all goods sold hereunder shall pass to Buyer upon delivery F.O.B. SELLER's plant to an agent of the Buyer including a common carrier. Seller has the option to select point of origin shipment, method of transportation and routing of shipment. Seller is liable for any delay, loss or damage in transportation however occasioned. All prices listed provide for standard packing for domestic shipment in accordance with SELLER's standard specifications. Special packaging shall be requested and invoiced accordingly.

4. PRICES, CREDIT AND PAYMENT

a. Buyer shall pay for goods according to the terms of payment as specified on the face hereof or those terms specifically quoted to Buyer in writing. Pro rata payments shall become due as deliveries are made. Minimum billing by Seller shall be \$25.00 net. If any work is delayed by the Buyer, payments shall be made on the purchase price and the percentage of completion as determined by Seller. Seller shall be entitled to invoice in addition to the price quoted all additional wage costs, including premiums thereon, incurred for overtime requested by Buyer. Price quotes shall remain firm for thirty days from the date of Seller's quote, but prices otherwise are subject to change without notice.

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- b. If Buyer shall fail to fulfill the terms of payment or if Seller at any time shall have any doubt as to Buyer's financial responsibility, Seller without liability to Buyer may decline to make further shipments except against cash or satisfactory security at its option.
- c. If Seller is prevented from revising prices or from continuing any price already in effect by an action of government or by compliance with any request of government, Seller may cancel this contract or any undelivered portion thereof without liability to Buyer upon written notice of such termination to Buyer.

5. TAXES, DUTIES AND EXCISES

In the absence of satisfactory evidence of exemption supplied to Seller by Buyer, Buyer shall pay in addition to the price of the goods all taxes, duties, excises or other charges for which Seller may be responsible for collection or payment to any government (national, state or local) upon, measured by or relating to the importation, exportation, production, or any phase or part of the production, storage, sale, transportation and/or use of the goods identified on the face hereof.

6. CANCELLATION

Requests for cancellation of any order by Buyer must be in writing and will be subject to payment by Buyer on the following basis:

Any items which, upon receipt of a written notice of cancellation are within thirty calendar days of completion, are to be completed and paid for by the Buyer in full under the regular terms and conditions of billing. On all items for which materials have been purchased but on which no actual production has been started, payment will be made on the basis of actual cost of materials purchased, plus 15% on the total of such cost and expenses. On all items already entered for production and which are not within thirty calendar days of completion, payment will be made on the basis of actual cost of labor (including without limitation engineering services), materials and supplies applied to the production of such items plus overhead expenses allocated in accordance with generally accepted accounting practice as applied by Seller, plus 15% on the total of such cost and expenses; provided the total shall not exceed 90% of the contract price. In the event of cancellation of incomplete equipment, Seller's figures, which shall be reasonably calculated based upon standard accounting practices, shall be accepted as final and conclusive and Buyer's request for disposition of the material canceled shall be given to Seller within thirty calendar days from date of notice to Buyer of the cost of cancellation. Buyer's failure to request final disposition of canceled material within said thirty days shall be conclusive evidence of Buyer's agreement that Seller may dispose of the canceled material as it sees fit without obligation of any nature by Seller to Buyer.

7. RETURNED MATERIAL

Seller may, at its discretion, accept return of standard products for restocking credit. No products are to be returned without Seller's prior written approval. Standard products authorized by Seller for return are subject to a 10% service charge plus Seller's original transportation costs and must be returned to Seller at Buyer's expense and risk of loss and in their original condition.

8. DELAY

- a. Buyer acknowledges that delivery dated for products sold hereunder are based on the assumption that there will be no delay due to causes beyond the reasonable control of Seller.

- b. Seller shall not be charged with any liability for delay or non-delivery when due to delays of suppliers, production problems, acts of God or the public enemy, compliance with any applicable foreign or domestic court order or governmental regulation, order or request whether or not it proves to be invalid, fires, riots, labor disputes, unusually severe weather, or any other cause beyond the reasonable control of Seller. In the event of any such delay, the date of delivery shall be extended for a period of time equal to the time lost be reason of the delay, but this contract shall remain otherwise in effect and Buyer shall not be relieved of his obligations to accept delivery as so delayed.

9. ENGINEERING DRAWINGS

General layout drawings will be submitted to the Buyer for approval and the Buyer will be asked to approve or comment on these drawings in regard to the scope of the work and overall dimensions. Approval by Buyer does not relieve Seller of obligation to perform to all the other specifications of this contract. In the event of interference, the Buyer will be responsible for supplying Seller with information that will eliminate interferences of Seller's equipment with other equipment, piping and wiring. Layout drawings will be used for the preparation of fabrication drawings after they are returned with the Buyer's approval or comments.

All additional engineering and/or drafting costs required to revise layout drawings and manufacturing drawings as a result of changes requested by Buyer after initial approval will be invoiced to the Buyer at Seller's prevailing per hour rates. Increases in manufacturing costs that result from such changes will be presented to the Buyer for approval of Seller's increased price before work commences.

10. SPECIFICATIONS

With the exception of this project, the Seller reserves the right to make product changes and modify product specifications without notice. Seller shall be under no obligation to incorporate any such changes or modifications in products manufactured prior to implementation of such changes and modifications.

11. STORAGE OF EQUIPMENT

If a delay in the shipping date is requested by the Buyer within 60 days before the scheduled shipping date, Seller at its option may place the equipment in storage facilities and the Buyer will pay the cost of special handling, storage and insurance. Goods held for the Buyer shall be at the risk of Buyer.

12. ASSIGNMENT AND NON-WAIVER

- a. This contract is not assignable or transferable by Buyer whether voluntary or by operation of law, in whole or in part, without the prior written consent of Seller.
- b. Seller's failure to insist upon strict performance of any provision hereof shall not be deemed to be a waiver of Seller's rights or remedies or a waiver by Seller of any subsequent default by Buyer in the performance of or compliance with any of the terms hereof.

13. SEPARATE CONTRACT

Each delivery shall stand and may be recovered for as a separate and independent contract. If Buyer fails to fulfill the terms of order, purchase, or payment under this or any other contract with Seller, Seller without prejudice to other lawful remedies may at its option defer further shipments hereunder until such default is made good, treat such default as a breach of this entire contract or terminate this contract.

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14. ROYALTIES; MISCELLANEOUS

The purchase of equipment from Seller confers no license, express or implied, under any patents. When goods identified on the face hereof include goods suitable for use according to Seller's patents, a royalty (amount obtainable upon request) is included in the purchase price. Goods identified on the face hereof may vary according to Seller's established limits, sizes and tolerances in effect at the time of delivery in respect of such goods. ANY ADVICE FURNISHED BUYER CONCERNING THE USE OF THE GOODS SHALL REPRESENT SELLER'S BEST JUDGMENT IN THE CIRCUMSTANCES BUT IS ACTED UPON AT BUYER'S SOLE RISK.

15. ENTIRE CONTRACT AND CONSTRUCTION

- a. The agreement between Buyer and Seller in respect of the goods identified on the face hereof consists in its entirety of the terms and conditions appearing on the face and back of this document in lieu of all others and supersedes all previous communications, representations or agreements, either oral or written, between the parties hereto with respect to the subject matter hereof. No modification shall be effected by the acknowledgment or acceptance of Buyer's purchase order forms or other documents containing terms and conditions different from or in addition to those contained herein.
- b. Acceptance or use by Buyer of any goods delivered hereunder shall be an acceptance of these as the only terms and conditions applying to the purchase and sale of said goods unless other terms and conditions be agreed to in writing signed by both parties specifically referring to this agreement.
- c. This agreement shall be interpreted in accordance with and the construction thereof shall be governed by the laws of the State of Wisconsin. Captions as used in these terms and conditions are for convenience of reference only and shall not be deemed or construed as in any way limiting or extending the language of the provisions to which such captions may refer.

MEGTEC SYSTEMS, INC.

By: _____

Date: _____

Buyer: _____
(Company)

By: _____

Date: _____