

TERMS AND CONDITIONS

1. Buyer's acceptance of products furnished hereunder shall constitute Buyer's assent to all of the terms and conditions of the sales order.

2. Delivery dates shall be computed from the date of Seller's acceptance of Buyer's order or orders referred to on the sales order, and in each case shall be deemed to be an estimate of the approximate date or dates of delivery and not a guarantee of a particular day of delivery. Seller shall not be liable for any loss or damage, consequential or otherwise, caused directly or indirectly by failure or delay in shipping products hereunder if such failure or delay is due to an Act of God, war, labor difficulties, accident, inability to obtain containers or raw materials or any other cause of any kind beyond Seller's control.

3. In addition to the purchase price, Buyer shall pay any tax or other charge which may be imposed by any governmental authority on the sale or use of products covered hereby or in any way related to such products, provided that in appropriate cases Seller will accept from Buyer a tax exemption certificate in form satisfactory to the taxing authority.

4. Seller warrants only that all products shall be free from defects in materials and workmanship for not more than 1 year after shipment and shall be designed in accordance with specifications furnished by Buyer, documented by Buyer's blueprints or drawing or, if specifications so documented are not furnished by Buyer, in accordance with specifications established by Protek Devices.

Seller otherwise makes no warranty express or implied and specifically disclaims any implied warranty of merchantability or fitness for a particular purpose which exceeds the forgoing warranties.

5. In the event any product sold by Seller to Buyer hereunder does not conform to the afore said warranties, Seller's sole responsibility shall be to replace such product and Seller shall not be liable for any consequential damages, loss or expense arising in connection with the use of or the inability to use such product for any purpose whatsoever. Seller's maximum liability shall not in any event exceed the contract price for the product claimed to be defective or unsuitable.

6. It is understood that any engineering or technical assistance furnished by Seller to Buyer concerning the design and specifications of products sold hereunder is in the nature of advice only, that the final judgment concerning design and specifications is Buyer's and that in furnishing such engineering and technical assistance, Seller assumes no responsibility whatever with respect to the design or specifications of such products.

7. In addition to the prices set forth on the sales order, Buyer shall pay any charges imposed by Seller at the time of shipment based upon (a) unanticipated costs incurred by Seller including, without limitation, costs of extra packing for export, special engineering or servicing, manufacturing tool charges and overtime and additional work authorized by Buyer and (b) Buyer's proportionate share of unanticipated increases in manufacturing costs, including, without limitation, increases in costs of material, labor and plating.

8. Any order received from a point within the United States shall have a minimum price of \$300.00 and any order received from a point outside the United States shall have a minimum price of \$300.00.

9. It is understood that there may be a variance of as much as 5% between the quantity of any product ordered and the quantity thereof shipped, and that Seller's shipment of a quantity varying not more than 5% from the quantity ordered shall constitute full performance by Seller hereunder. Notwithstanding the quantity shown on Buyer's order and on the sales order.

Seller shall invoice Buyer, and Buyer shall pay, for the actual quantity shipped so long as any such variance does not exceed 5%.

10. Buyer's cancellation or modification of any order or contract will not be accepted by Seller except upon Buyer's payment to Seller of charges based upon costs incurred by Seller as a result of such cancellation or modification. All modifications to terms, conditions, and addendums will be explicitly documented on the sales order. Delivery schedule changes will not be accepted within 60 days of promised delivery on standard products. Orders cancelled within 60 days of scheduled ship date will be subjected to cancellation charges of up to 100%. Delivery schedule changes for special products or special priced items will not be accepted within 90 days of promised delivery. Orders cancelled for special products and special priced items within 90 days of scheduled ship date will be subjected to charges representative of the cost incurred to Protek Devices.

11. Buyer may not return any product for exchange or credit without the written consent of Seller's office at the point from which such product originally was shipped, and any product so returned may be subject to a restocking charge of not less than 25% of the invoice price for such product. All returns must be accompanied by a written authorization or authorization number supplied by Protek Devices.

12. Seller shall, at its own expense, defend any suits instituted against Buyer, based on any claim that products furnished hereunder infringe any Letters Patent of the United States and Seller shall pay any damages assessed against Buyer in any such suit, provided that Buyer, upon service of process upon it, gives to Seller notice in writing of the institution of such suit, and permits Seller, through counsel chosen by Seller to defend the same, and gives Seller all information in Buyer's possession and reasonable assistance and authority to enable Seller so to do. Seller shall have no liability, or obligation to Buyer for Patent infringement resulting from compliance by Seller with written instructions or specifications of Buyer concerning the structure, material, or method of making products furnished hereunder.

13. The contract resulting from the acceptance by Seller of Buyer's order or orders referred to on the sales order shall be based solely on the terms and conditions set forth in Seller's written Quotation, if any, and on the sales order. Such terms and conditions shall not be amended or modified in any way by any additional, different or contrary terms and conditions, contained in Buyer's order or in any other documents or instrument submitted by or on behalf of Buyer. The contract so made between Buyer and Seller shall be governed by and subject to the laws of the State of Arizona. Protek Devices acceptance of Buyer's purchase order is expressly conditioned on Buyer's assent to all terms and conditions stated hereon.

14. All notices shall be in writing and shall be given by forwarding the notice to the party being notified at the address shown on the sales order or at such other address as may be designated in writing.

15. The acknowledgment shall not be binding upon Seller unless signed on seller's behalf, or e-mailed from authorized personnel employed by seller and may not be amended or modified in any way except by written instrument signed by authorized personnel employed by Seller or by e-mail.

16. All Shipments F.O.B. Shipping Point. Delivery by Seller to Carrier constitutes delivery, as well as transfer of title and possession to Buyer. Claims for loss or damage should be promptly presented to Carrier.

17. The Buyer shall indemnify the Seller in respect of all damage, injury or loss occurring to any person or property and against any and all actions, suits, claims, demands, losses, liabilities, injuries or costs and expense (including reasonable attorneys fees) arising out of or in connection with the condition or use of the Goods in the event that the damage, injury or loss shall have been occasioned partly or wholly by the acts of the Buyer or his servants or agents. The Buyer shall indemnify the Seller in respect of all damage, injury or loss occurring to any person or property and against any and all actions, suits, claims, demands, losses, liabilities, injuries or costs and expenses (including reasonable attorneys fees) arising out of or in connection with the condition or use of any product or appliance of which the goods or any of them form part and which is not wholly or primarily attributable to any defect in the goods.