TERMS OF SALE

In the following, "Vendor" refers to Engineering Design, "Buyer" refers to the customer, "Product" refers to all goods and services provided to the Buyer by Engineering Design, and "Contract" refers to the entire sales agreement between Vendor and Buyer, including these Terms of Sale.

1. Scope of the Terms
All sales are made on the terms and conditions (the "Terms") stated herein, unless specified otherwise in writing by the Vendor. These Terms are bound by reference to any quotation issued by the Vendor. Should any of these Terms be inapplicable, all remaining terms shall apply. In the event of conflict between these Terms and any terms asserted by the Buyer, these Terms shall prevail. By issuing a purchase order in reference to the Vendor's quotation, the Buyer agrees to these Terms.

2. Change and Cancellation of Orders
Purchase orders may not be changed by the Buyer except by approval in writing from the Vendor. Purchase orders may not be cancelled by the Buyer except by demonstration of Vendor negligence.

3. Terms of Quotation
All quoted costs are in US dollars and do not include freight, insurance, duties, taxes, or similar charges unless specified. Product is shipped by common carrier unless requested otherwise by the Buyer. Domestic shipments are quoted FOB destination, with freight and insurance prepaid and added to the invoice. International shipments are quoted CIF (cost of goods, insurance, and freight) Buyer's destination or CFR (cost of goods and freight) Buyer's destination. Product title passes to the Buyer at the FOB point on domestic shipments and at the CIF or CFR point for international shipments. **Buyer must notify Vendor in writing of any claims for shipping damage within 5 business days after receipt of shipment;** claims received after this date cannot be honored.

4. Delivery
Failure to achieve quoted delivery time shall not constitute Vendor default except by demonstration of lack of Vendor due diligence. Under no circumstances shall Vendor be liable for late penalties or consequential damages arising from Product delivery.

5. Terms of Acceptance
The Product will be deemed accepted 30 days after date of receipt by the Buyer, unless by this date the Buyer provides written notification to the Vendor, stating reasons for non-acceptance.

6. Terms of Payment
All payments must be in US dollars. Payment terms on domestic orders are net 30 days to government and educational institutions, and to other buyers with prior approval. Payment terms on international shipments are full payment in advance unless quoted otherwise. Customer pays all outgoing wire transfer charges. No cash discounts or early payment discounts are allowed. Overdue invoices are subject to a late payment charge of 1.5% per month re the due date.

7. Taxes and Fees
California sales tax will be charged on shipments delivered to California. A **contract fee** of $250 will be added to orders requiring a purchase contract instead of a purchase order. A **customs fee** of $100 will be added to international orders requiring any customs paperwork other than the Vendor's commercial invoice, in addition to charges for any special handling required for export to the destination country.

8.   Hardware Compatibility

Vendor software is warranted to function with hardware components that are either (1) supplied by the Vendor or (2) specified by the Vendor for operation with Vendor software. The Vendor assumes no other responsibility for hardware compatibility.

9.   Terms of Warranty

Components manufactured by the Vendor are warranted to perform substantially in accordance with the provided operating literature for a period of 90 days from invoice date. Components not manufactured by the Vendor are provided with the original manufacturer's warranty to the end user, with no additional warranty by the Vendor.

If warranty service is required, Product must be return to the Vendor at Buyer expense, including shipping, insurance and applicable duties and taxes. Vendor will pay cost of return shipment and insurance to the Buyer, but **not** duties and taxes, **unless** the Product has not failed or is not covered by Warranty, in which case the Buyer will pay all costs to and from the Vendor.

This Warranty does not apply to failures due to accident, misuse, abuse, negligence or modification.

EXCEPT AS SET FORTH IN THE EXPRESS WARRANTY ABOVE, THE VENDOR PRODUCT IS PROVIDED WITH NO OTHER WARRANTIES, EXPRESS OR IMPLIED. THE VENDOR EXCLUDES ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTIBILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10. Installation, Technical Support, and Documentation

Buyer is responsible for all post-delivery assembly and installation, unless these services are explicitly included in the quotation. Technical support is provided at Vendor's sole discretion, unless explicitly included in the quotation or provided under a maintenance contract. Documentation is provided as disk file in English only, and is not provided as hardcopy.

11. Buyer Remedies

Vendor's entire liability and Buyer's sole remedy shall be, at Vendor's **sole discretion**, either (1) return of the Product and refund of purchase price or (2) repair or replacement of the Product.

12. Limitation on Liability

THE VENDOR WILL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES HEREUNDER, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, OR LOSS OF DATA OR INFORMATION OF ANY KIND, ARISING OUT OF THE USE OF OR INABILITY TO USE THE VENDOR PRODUCT. IN NO EVENT SHALL THE VENDOR BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE PURCHASE PRICE.

13. License Agreement

The Vendor's software (the "Software") is provided to the Buyer with a non-exclusive license to operate the Software on **one computer system at a time**. The Software is the exclusive property of the Vendor. Software and all documentation are copyright Engineering Design, all rights reserved. Software may be duplicated **only** for archival back-up.

14. Contract Language

All binding parts of the Contract, including purchase order, shall be in English only. Any parts of the Contract not in English shall be considered for reference only and non-binding.

15. Governing Laws and Arbitration

Contract shall be governed by the laws of the USA and the state of California. All disputes in connection with this Contract shall be settled by binding arbitration in the state of California. Vendor and Buyer waive the right to settle disputes by litigation. Cost of arbitration shall be divided equally between Vendor and Buyer.

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