



TERMS AND CONDITIONS

1. ACCEPTANCE AND CANCELLATION OF ORDERS

Each order for goods is subject to acceptance in writing by a duly authorized agent of seller; any written acknowledgement of receipt of an order shall not, in and of itself, constitute such acceptance. Orders accepted by Seller may be cancelled by Buyer only upon written consent of Seller, in the event of cancellation or other withdrawal of an order for any reason and without limiting any other remedy which Seller may have as a result of such cancellation or other withdrawal, reasonable cancellation or restocking charges, which shall include all expenses then incurred and commitments made by Seller, shall be paid by Buyer to Seller. Special orders for items not normally stocked are non-cancelable and non-returnable.

2. DELIVERY

All prices quoted and goods shipped are F.O.B Seller's facility. Title to and risk of loss of all goods shall pass upon Seller's delivery to carrier for shipment to Buyer. Unless otherwise agreed by Seller in writing, Buyer shall pay all freight handling, delivery and Insurance charges for shipment of goods. Choice of carrier and shipping method and route shall be at the election of Seller unless specifically designated by Buyer. Seller shall not be liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the Seller, which causes shall include without limitation, acts of God, acts of omissions of Buyer or civil or military authorities, fires, strikes, epidemics, quarantine restriction, flood, earthquakes, riot, war, delays in transportation or inability to obtain necessary labor, materials or supplies. In the event of any delay, the contractual date of delivery, if any, shall be extended for a period equal to the time lost as a consequence of such delay without penalty to Seller. Seller shall be entitled to refuse or to delay shipments upon failure by Buyer to pay promptly any payments due Seller, whether on this or any other contract between Seller and Buyer. Seller shall have the right to deliver all goods covered hereby at one time or in portions from time to time within the time for delivery provided in such order.

3. TERMS

- a) Unless otherwise specified by Seller in writing (refer to payment terms on face of Buyer's Invoice), payment in full or net amount owing, without offset or deduction, is due 15 days from date of invoice. If payment is not received within such 15-day period, Buyer shall pay a late payment of 2 % per month of the unpaid balance or the maximum amount allowed by law, which ever is less.
- b) All checks are accepted subject to collection, and Buyer agrees to pay all costs of collection, including reasonable attorney fees and costs. Seller may apply any check received from Buyer against any obligation of Buyer to Seller under this or any other agreement, notwithstanding any statement appearing on or referring to such check. Acceptance of any partial payment shall not constitute a waiver of Seller's right to payment in full of all amounts owing from Buyer to Seller.
- c) Seller shall have the right to refuse to ship to Buyer on credit at anytime and shipments made to Buyer on a C.O.D. or other basis shall be subject to the terms and conditions of sale contained herein. Seller shall retain a purchase money security interest in all goods sold to Buyer until the full purchase price therefore and any late payment charges have been paid

4. INSPECTION AND ACCEPTANCE OF GOODS

Buyer is deemed to have accepted products unless notice of rejection is given within a reasonable time, which is agreed to be within ten (10) days after receipt. CLAIMS OF LATE DELIVERY is void unless made prior to receipt of products, and receipt of products shall constitute a waiver of any claim of late delivery. No return will be accepted without prior "Return Material Authorization" (RMA#). Material must be returned as directed by the location issuing the RMA# and be in its original packaging. Returns of product packaged in electrostatic packaging will not be accepted if electrostatic packaging has been opened.

5. SELLERS RIGHT TO INCREASE PRICES

Unless otherwise specified on the face of this agreement, Seller reserves the right to increase the selling price of any and all goods ordered by Buyer but not yet shipped from Seller's place of business prior to an increase in Seller's cost of such goods by Seller's Supplier. The selling price quoted to Buyer shall upon an increase in price by Seller's supplier be increased by the same percentage of increase in Seller's cost for the goods and buyer agrees to pay any such increased price in accordance with the terms hereof.

6. TAXES

Seller's prices do not include sales, use, excise or similar taxes. Accordingly, Buyers shall in addition to prices specified by Seller, pay any sales, use, excise or similar tax attributable to the sale of goods covered hereby, or, in lieu thereof, provide Seller with tax exemption certificates acceptable to the taxing authorities.

7. DISCLAIMER OF WARRANTIES AND LIMITATION OF REMEDIES

- a) Seller disclaims any warranty respecting the merchantability of the products sold to Buyer or their fitness for any particular purpose or use. Seller agrees to transfer to Buyer whatever transferable warranties Seller receives from the manufacturer of products sold to Buyer. Value-added work performed by Seller will conform to applicable Buyer's specification relating to such work.
- b) Seller's liability arising out of any sale of goods to Buyer is expressly limited to either: 1) Refund of the purchase price paid by the Buyer for such goods (without interest), or 2) Repair and/or replacement of such goods, at Seller's election, and such remedies shall be exclusive and in lieu of all others. In no event shall Seller be liable for indirect, special, or consequential damages of any nature, including, but not limited to, personal injury or property damage. Buyer's recovery from Seller for any claim shall not exceed the purchase price paid by Buyer for the goods irrespective of the nature of the claim, whether in warranty, contract or otherwise.

8. PATENTS – INFRINGEMENTS

Seller makes no representations that any goods sold to Buyer are free of the rightful claim of any third person by way of infringement, or of infringement of patent or trademark or the like and disclaims any warranty against infringement with respect to any goods. Buyer agrees to look solely to the manufacturer or licensor of the products with respect to any claim or infringement. Furthermore, buyer agrees to protect, defend, indemnify and hold harmless Seller from all sums, costs, expenses and attorney fees which Seller may incur or be obligated to pay as a result of any and all claims and demands, causes of action or judgments arising out of or relating to any use modification or enhancement of the goods purchased by Buyer unless such use, modification, or enhancement is approved in writing by the manufacturer or licensor of the goods.

9. INSTALLATION

Buyer shall be solely responsible for the installation and operation of the goods covered hereby, including without limitation the obtaining of all permits, licenses or certificates required for the installation of such goods.

10. USE OF PRODUCTS IN LIFE SUPPORT APPLICATIONS

Goods sold by Seller are not authorized to be used in life support equipment or for applications in which the failure or malfunction of the goods would create a situation in which personal injury or death is likely to occur. Any such use or sale of goods sold by Seller is at the sole risk of Buyer and Buyer agrees to indemnify and defend

Seller against and hold Seller harmless from all damages, costs and expenses, including without limitation attorney fees and costs relating to any lawsuit or threatened lawsuit arising out of such use or sale.

11. TECHNICAL ADVICE AND DATA

Any technical advice offered or given in connection with the use of any goods is an accommodation to Buyer without charge and Seller shall have no responsibility or liability whatsoever for the content or use of such advice. Without Seller's prior written consent, Buyer shall not use, duplicate or disclose any technical data delivered or disclosed by Seller to Buyer for any purpose other than for installation, operation or maintenance of goods purchased by Buyer.

12. SOFTWARE

All computer software, if any, delivered by Seller to Buyer is licensed pursuant to separate licensing agreements or other arrangements directly to Buyer from the owner of the software or other third party. Buyer acknowledges receipt of separate agreement pursuant to which software delivered to Buyer is licensed. Buyer acknowledges that Seller is not a party to such license with respect to software supplied hereunder. Buyer agrees to look directly to the licensing party in connection with all maintenance, support, infringement, and warranty claims relating to software delivered to Buyer hereunder.

13. DEFAULT

In the event of any default by Buyer, Buyer shall pay all costs incurred by Seller in collecting any amounts due to Seller by Buyer including reasonable attorney fees and costs. The waiver by Seller of any breach hereof or default. In the event of default Seller shall have all remedies provided under the Uniform Commercial Code which shall be cumulative with one another and with any other remedies which Seller may have at law, in equity, under any agreement of any type without limitation otherwise the exercise or failure to exercise any remedy at any time. No action, regardless of form arising out of, or in any way connected with the goods furnished or services rendered by Seller may be brought by Buyer more than one year after cause of action has occurred.

14. INTEGRATION AND ASSIGNMENT

This agreement sets forth the sole and online agreement between the parties with regard to the subject matter hereof and supersedes any and all prior or contemporaneous oral or written agreements between them regarding the same. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting acquiescing part had knowledge of the nature of the performance an opportunity for objection. No subsequent alteration of this agreement whatsoever binding upon Seller unless reduced in writing and signed by both Seller and Buyer. No agent, employee or representative of the Seller has any authority to bind the Seller to any affirmation, representation, or warranty covering the materials sold under this agreement, and unless an affirmation representation or warranty made by agent employee or representative is specifically included within this agreement, it has not formed a part of the agreement and shall not in any way be enforceable against the Seller. Any assignment of this agreement or any rights hereunder by Buyer shall be void without Seller's consent.

15. BUYER'S TERMS AND CONDITIONS

Seller desires to provide its customers with prompt and efficient service. Accordingly goods furnished and services rendered by Seller are sold only on the terms and conditions stated herein. Notwithstanding any laws and conditions on Buyer's order, the information and conditions on the credit application are controlling over Buyer and Seller. Any conflicting statement or terms listed on the Buyer purchase orders, invoice, confirmations, or other buyer generated documents (*Buyer Documents) whether here fore or hereafter submitted are negated by submission of the credit application and the issuance of credit by Seller, and all different or additional terms and conditions contained in any Buyer documents are hereby objected to by Seller. Seller's performance of any contract is expressly made conditional on Buyer's agreement to Seller's terms and conditions of sale unless otherwise specifically agreed in writing by Seller. In the absence of such agreement commencement of performance and/or delivery shall be for Buyer's convenience only and shall not be deemed or construed to be acceptance of Buyer's terms and conditions or any of them. If a contract is not earlier formed by mutual agreement in writing, acceptance of any goods or services shall be deemed acceptance of the terms and conditions stated herein.

16. GENERAL

This agreement and performance by the parties here under shall be construed in accordance with the internal laws (excluding the laws relating to conflicts) of the State of California including the provisions of the California Uniform Commercial Code. The parties expressly exclude the applicability of the United Nations international sale of goods. All agreements, covenants, conditions and provisions contained herein shall apply to and bind the assignees and acceptors in interest of Buyer. If any provision or portion of this agreement is held to be invalid, illegal, unconscionable or unenforceable, the other provisions and portions hereof shall not be affected. The several captions used herein are for the conveniences of the parties only and shall not affect the construction or interpretation hereof. Buyer warrants and represents to Seller that all goods shall be purchased for Buyer's business or commercial use and no for Buyer's personal, family or household purposes.

Semi-Custom Product Business Assumptions

1. SUPPLIER/CUSTOMER:

- a) One Stop Systems (OSS) is a manufacturer of standard and semi-custom computing systems and related products based on the CompactPCI specification. It is assumed that the customer is developing a semi-custom product that utilizes this technology. It is also assumed that the customer plans to purchase a semi-custom product from OSS, add in-house developed and third party board-level products and peripheral devices, install the application software, and sell the completely integrated system to end-users for a specific application.
- b) OSS provides in-house engineering and prototypes in the manufacture of such products for the express purpose of manufacturing production volumes of those products. It assumed that by providing prototypes, OSS will also provide production volumes.

2. NRE AND INTELLECTUAL PROPERTY:

OSS charges a non-recurring engineering fee based on the amount of engineering time and overhead required to design a semi-custom product. The intellectual property contained in the standard as well as in the semi-custom product itself is the result of substantial (multi-year) investment, and thus OSS retains all of the intellectual property rights to these products. During the customization process a number of engineering files and drawings are often shared between OSS and the customer. This information is considered confidential and proprietary and is to be used only to insure that the modified design meets the customer's needs. Use of this information for any purpose other than design clarification is strictly prohibited. Possession of these design documents (even if they have been provided by OSS personnel) does not imply any transfer of intellectual rights or manufacturing rights for these products.

3. PRICE QUOTES AND ITEMIZED SUB-ASSEMBLY PRICING:

At the customer's request, OSS will provide approximate pricing itemization for the individual sub-assemblies that make up the custom/semi-custom product. This data is intended for informational purposes only, and does not imply that OSS offers to sell the individual components of these enclosures on a piece-part basis. The labor and overhead content of the entire product is spread over the individual line items, such that the sum of the parts is equal to the total for the product. Should the customer request to purchase the product without some of the elements shown, the product will be quoted.

4. MANUFACTURING RIGHTS OPTION:

Should the customer decide to have the product manufactured internally or by another supplier after the product has been designed and prototypes manufactured and delivered, both parties can enter into a "manufacturing rights option agreement". This agreement could provide the customer with the manufacturing documentation and intellectual property rights required to allow the customer to manufacture the product. The terms of such an agreement would include but are not limited to: maintaining confidentiality of information, non-transference of information, agreement not to sell the enclosure stand-alone, agreement to purchase a minimum quantity of products from OSS prior to exercise of such rights, a one-time fee at the exercise of this option and a on-going per-unit royalty fee.

Accepted by: _____

Title: _____ Date: _____