

DYNAMICSIGNALS LLC

GENERAL TERMS AND CONDITIONS OF SALE

1. PRODUCTS

As used in these terms and conditions, the term "PRODUCTS" includes goods and/or services, as applicable supplied by DYNAMICSIGNALS (Seller) to the "Buyer".

2. PRICES and PRICE TERMS

Seller's prices are exclusive of taxes, shipping, and insurance, and include Seller's standard packaging only. Any additional packaging requirements from Buyer will be considered to be at additional costs to the Buyer. U.S. domestic prices apply to Products purchased in the U.S.A. for use in the U.S.A. U.S. export prices apply to Products purchased in the U.S. for export. Prices are Ex-Works, Seller's facility ([Incoterms 2000](#)). Refer to item 6 Shipping and Delivery for more details.

Seller's minimum charge for any order is fifty US dollars (US \$50.00) plus shipping/transportation costs.

Unless otherwise indicated, Seller reserves the right to invoice at prices in effect at time of shipment.

3. TAXES

Any and all Federal, State and local sales, use, excise, privilege, and similar taxes imposed upon Seller or which Seller has an obligation to collect in connection with the sale, delivery, or use of any Product will appear as separate line items on the invoice. If sales to Buyer are exempt from such taxes, Buyer shall furnish Seller with a written certificate of exemption.

4. QUOTATIONS

Seller's quotation constitutes an offer to sell according to the terms and conditions set forth in the [Quotation document](#). Unless otherwise indicated, Quotations are valid for thirty (30) days from date of issuance. Any delivery dates provided in the quotation are estimates of approximate dates of delivery and not firm guarantees of a particular day of delivery.

5. PURCHASE ORDERS

Seller's acceptance of Buyer's purchase order is expressly conditioned upon Buyer's assent to Seller's published terms and conditions to the exclusion of any additional or different terms or conditions included in Buyer's purchase order form, which assent shall be presumed conclusively from Buyer's failure to reasonably object in writing or from Buyer's acceptance of any or all of the Products ordered.

6. RESCHEDULING AND CANCELLATION

All requests to reschedule or cancel an order are subject to acceptance by Seller. Seller reserves the right to assess a rescheduling or cancellation fee (minimum charge is 20% of the order value) for requests received within 30 days of a scheduled shipping date. Unless otherwise provided for, special orders, if there has been an accumulation of materials, engineering or drafting resources, the cancellation will be based on actual costs incurred, plus a reasonable allowance for overhead/profit up to 100% of order value.

7. SHIPPING AND DELIVERY

Delivery of all Products will be Ex-Works Seller's facility (2000 Incoterms). At the discretion of Seller, the shipment may be dispatched from either their US facility in

Lockport IL or through a Canadian facility in Lachine QC. The shipping point will be indicated on the Sales Order Confirmation at the time Seller confirms/accepts Buyer's order.

Seller will schedule shipments based on Buyer's requests and Seller's estimated shipping capability, provided Buyer's purchase order requests shipment within twelve (12) months from the date of the order. Seller may make partial shipments unless Buyer's purchase order specifically objects. Delivery dates are estimates of approximate dates of delivery, not a guarantee of a particular day of delivery, and are based on the prompt receipt of all necessary payments and information from the Buyer.

For products shipped freight prepaid or insured Seller will invoice Buyer for freight/insurance charges. These charges may be shown on the invoice as a single line item identified as Transportation Services or as separate line items at Seller's sole discretion.

Seller will not be liable for any delay or failure to deliver resulting from circumstances beyond Seller's reasonable control or which would cause Seller to incur unreasonable expense to avoid.

All spare or replacement parts not covered by warranty are shipped Ex-Works Sellers facility (2000 Incoterms). *For parts under warranty, please refer to Sellers [Service /RMA policy](#) on the website.*

8. INVOICES AND PAYMENT

Unless otherwise indicated, Seller reserves the right to invoice at prices in effect on date of shipment.

Upon each shipment, Seller will issue an invoice to the address specified in Buyer's purchase order. Seller's standard payment terms are prepaid, cash upon delivery or, at the option of Seller, net thirty (30) day credit terms from the date of the shipment invoice. All payments shall be in US dollars. Where credit terms are granted, overdue amounts shall bear interest at the maximum legal rate per annum. For large value orders, payment may be made by a Documentary Letter of Credit issued through a Major U.S. Bank. *Please refer to our [Letter of Credit Guidelines](#) for export shipments from either Canada or USA for further information when choosing this type of payment.* At the discretion of Seller, an administration-documentation LC processing fee is applicable for where chosen payment option is Letter Of Credit.

Payments for partial shipments shall become due as partial shipments are made.

If Buyer delays shipment, payment shall become due to Seller on the date the Seller is prepared to make shipment.

If the work to be performed hereunder is delayed by the Buyer or Purchaser, payments shall be made by Buyer to Seller based on the purchase price and the percentage of completion. Equipment held by Seller for the Buyer shall be at the sole risk and expense of the Buyer.

Seller may change its credit terms and/or suspend performance under any order when, in the opinion of Seller, Buyer's financial condition or record of payment so warrants. Buyer agrees to pay any third-party collection expenses, including but not limited to attorney's fees, incurred by Seller to collect any unpaid amounts from Buyer.

9. CLAIMS FOR SHORTAGES OR SHIPPING DAMAGES

Any material received damaged must be so noted on the delivery receipt by the delivery carrier at time of delivering and reported to the Seller no later than five (5) days after receipt of shipment.

Concealed damage claims must be reported and confirmed in writing to the delivering carrier no later than fifteen (15) days from date shipment was received in accordance with [ICC regulations](#).

Claims for shortages of material must be made to the Seller in writing within thirty (30) days after receipt of shipment.

For any claims under this paragraph for which the Seller may be liable, the Buyer's exclusive remedy shall be the repair or replacement, Ex-Works Sellers factory, as the Seller may elect, of such material. Buyer must retain and make available to Seller or its agents, all original cartons, containers, and other packing material for the shipment under question until claim is remedied.

10. RETURN OF MATERIAL

Seller's permission must be obtained in writing before any Products are returned by Buyer for any reason whatsoever. If Products are returned without such permission, Buyer authorizes Seller, in addition to such other remedies as it may have, to hold the returned Products at Buyer's sole risk and expense.

When Buyer requests authorization to return Product for reasons of his own, the Buyer will be charged for reworking returned goods to saleable condition, restocking charges and for any outbound or inbound transportation paid by Seller. Buyer is responsible for ALL Customs and Clearance related charges for such returned goods.

11. TITLE, RISK OF LOSS, AND SECURITY INTEREST

Title to the Products (except software) shall not pass to Buyer until such time as Buyer has paid the full price to Seller for all Products sold by Seller to Buyer under any and all contracts between them. Title to Software Products will remain with Seller or its licensors. Risk of loss for all Hardware Products shall pass to Buyer as per Ex-works Sellers facility (2000 Incoterms).

Seller reserves a security interest in each Product until the entire amount owing by Buyer has been paid to Seller.

12. SOFTWARE

Software, including software Products and Software incorporated within Products, e.g., on CD ROM or on internal media, is provided under license and is subject to the terms of a separate [Software License Agreement](#), a copy of which may be obtained from any DYNAMIC SIGNALS sales office or our website: www.dynamicsignal.com. In general, Seller's Software Licenses permit reproduction only for use with equipment for which the Software was originally acquired and prohibits disassembly, decompilation, and reverse engineering. Buyer may use and reproduce the Software only as permitted by the applicable license.

13. WARRANTY

Seller warrants to Buyer that the Products it sells will be free from defects in materials and workmanship for the periods set forth in the applicable [Warranty Statement](#), a copy of which may be obtained from any DYNAMIC SIGNALS sales office or our website at www.dynamicsignals.com. If any such Product proves defective during the Warranty period, Seller will repair or replace the defective Product as specified in the applicable statement.

Information concerning the warranty period and whether warranty service will be provided at a location other than Seller's service center is set forth in the applicable warranty statement.

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. DYNAMIC SIGNALS AND ITS VENDORS DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE. SELLER'S RESPONSIBILITY TO REPAIR OR REPLACE A DEFECTIVE PRODUCT IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO THE VOLUME CUSTOMER FOR BREACH OF THIS WARRANTY.

14. USE OF RECONDITIONED MATERIAL

Products may include materials that are new or reconditioned to like-new performance and functionality.

15. INFRINGEMENT

Seller, at its expense, will defend Buyer against any claim based on an allegation that a Product furnished hereunder infringes a patent or copyright of another in the U.S.A., and Seller will pay any resulting costs, damages, and attorneys' fees finally awarded against Buyer that are attributable to such claim, or will pay the part of any settlement that is attributable to such claim; provided, that 1) Buyer notifies Seller promptly in writing of the claim, 2) Seller is permitted to control the defense or settlement of the claim, and 3) Buyer cooperates reasonably in such defense or settlement at Sellers' expense.

In its defense or settlement of any claim, Seller may 1) procure for Buyer the right to continue using the Product, 2) modify the Product so that its use becomes non-infringing, 3) replace the Product with a comparable Product not subject to the claim, or 4) provide Buyer an opportunity to return the Product for refund.

The defense offered above will extend to claims based on an allegation that the Product infringes a patent or copyright in the country of import, provided Seller has previously sold the Product within the same country and the Products were shipped outside the US pursuant to a valid export order.

Seller shall have no liability to Buyer for claims of infringement based upon 1) the use of any Product in a manner other than that for which it is intended or in combination with any Product not supplied by Seller, 2) the use of any Product designed, manufactured, or modified to the specifications of Buyer.

The foregoing states the entire obligation and liability of Seller with respect to infringement and claims thereof.

16. LIMITATION OF LIABILITY

IN NO EVENT SHALL SELLER OR ITS VENDORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF BUYER'S PURCHASE OR USE OF ANY PRODUCT, EVEN IF SELLER OR THE VENDOR HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

17. EXPORT RESTRICTIONS

Volume Buyers shall not export, re-export, or transfer, directly or indirectly, any Products or technical data received hereunder, to any country or user to which such export, re-export or transfer is restricted by United States or local country law or regulation without first obtaining all required governmental license, authorization, certification or approvals.

If Buyer resells or otherwise disposes of any Products or technical data purchased, it will comply with all export/import restrictions applicable to such transfer and will be responsible for obtaining all export licenses from U.S. Department of Commerce or any other agency or department of the United States Government as required or for Foreign Buyers, import licenses as required.

Seller shall have no liability for delayed delivery or non-delivery resulting from denial, revocation, suspension or governmental delay in issuance, of any necessary export license or authority.

18. WAIVER

The failure of either party to enforce any provision of these terms and conditions shall not be construed as a waiver of such provision or the right thereafter to enforce each and every provision. No waiver by either party, expressed or implied, of any breach of these terms and conditions shall be construed as a waiver of any other breach of such term or condition.

19. ASSIGNMENT

Buyer may not assign or otherwise transfer its rights or obligations under these terms and conditions without the prior written consent of Seller. No attempt to assign or transfer in violation of this provision will be binding upon Seller.

20. FORCE MAJEURE

Seller shall not be liable to the Buyer for any failure or delay in complying with the terms and conditions of this agreement if such failure or delay shall be due to any act of God, nature or the public enemy, accident, explosion, operation malfunction or interruption, fire, storm, earthquake, flood, drought, perils of the sea, strikes, lockouts, labor disputes, riots, sabotage, embargo, war (whether or not declared and whether or not the United States is a participant), Federal, State, Municipal, or governmental legal restriction of limitation or compliance therewith, failure or delay of transportation, shortage of, or inability to obtain; raw materials, supplies, equipment, fuel, power, labor or other operational necessities, interruption or curtailment of power or other energy or fuel supply, or any other circumstances of similar nature beyond the reasonable control of the Seller. In this condition, the Seller shall not be required to resolve labor disputes with suppliers of raw materials, supplies, equipment, fuel or power, but may in accordance with its best interest do so. This section shall be cumulative with the provisions of the applicable section of the [Uniform Commercial Code](#), or similar laws, enacted in the state described in the paragraph captioned "Governing Laws", relating to excuse of Seller by reason of the failure of presupposed conditions.

21. GOVERNING LAW

The rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Illinois, in the U.S.A.

22. ATTORNEYS' FEES

If litigation is commenced by either party to enforce any contract including these terms and conditions, the prevailing party shall be entitled to recover its reasonable costs and attorneys' fees, both at trial and on appeal.

23. NOTICES

All notices shall be given in writing and deemed effective seven (7) days after having been mailed, or immediately upon confirmation of being sent via fax or electronic mail. Notices to Buyer will be sent to the ordering office or other address shown in Buyer's purchase order. Notices to Seller should be sent to the Seller's sales office identified by Seller as being responsible for the order.

24. VOLUME CUSTOMER USE OF U.S. GOVERNMENT CLAUSES

Seller is a "commercial item" manufacturer and supplier as defined in Part 2 of the [Federal Acquisition Regulations](#) (FAR) and will accept those clauses required to be included in the acquisition of commercial items by FAR Part 12. Tailored clauses and any additional terms and conditions as described in FAR 12.302 require Seller's written acceptance