



VentureSource Solutions, Inc General Terms and Conditions of Sale

The Agreement. The following Terms and Conditions shall govern all sales of Products or Services, all quotations, order acknowledgments and invoice terms from VentureSource Solutions, Inc ("Seller"). The agreement between Seller and the Buyer identified in the quotation or on the face of the invoice ("Buyer") shall consist only of these Conditions of Sale along with any attachments, exhibits, or supplements referenced in the quotation. Buyer's issuance of a purchase order constitutes its acknowledgment that Seller's quote is the first document exchanged, containing the essential elements of, and therefore constitutes an offer. Seller objects to and shall not otherwise be bound by any additional or different terms, whether printed or otherwise, in Buyer's purchase order or in any other communication from Buyer to Seller. The parties have agreed and it is their intent that the battle of the forms described in Section 2-207 of the Uniform Commercial Code shall not apply to the Order or these Terms or to any invoice or acceptance form of Seller relating to the Order. It is the parties' intent that the Order and these Terms shall exclusively control the relationship of the parties, and in the event of any inconsistency between any invoice or acceptance form sent by Seller to Buyer and the Order, the Order shall control. These Terms and Conditions are the parties' entire agreement. In addition, Buyer's acceptance of the product and/or services from Seller shall be deemed to constitute acceptance of the terms and condition contained herein.

1. **No Implied Acceptance.** Notwithstanding any contrary provision in Buyer's purchase order, no action by Seller such as delivery of goods, the rendering of services or the commencement of work on goods to be specially manufactured for Buyer, will constitute an acceptance by Seller of any Terms and Conditions attached or incorporated in any purchase order or other documents issued by Buyer.

2. **Minimum Purchase Requirements.** Buyer hereby acknowledges and agrees that the prices set forth in this contract are contingent upon Buyer's agreement to purchase the total quantities set forth in the Buyer's request for quote/proposal. If Buyer fails to purchase at 80% of the quantities of goods contained in its request for quote/proposal, Buyer agrees that the pricing on the goods delivered to Buyer shall be adjusted retroactively to reflect the impact of lower volume on material pricing, labor efficiencies and other cost and expenses of Seller. Buyer hereby agrees to pay Seller such additional sums NET 30 following Buyer's receipt of Seller's invoice. The parties will negotiate in good faith the price, quantity and delivery terms for service parts taking into account the availability and costs of necessary materials, supplies, labor and other costs for equipment, set up, packaging and similar factors. Buyer also agrees to purchasing commitments of 6 weeks firm finished goods inventory and 8 weeks fab authorization. In the event of program cancellation, drastic shifts in volume or other volume related fluctuation not directly affected by Seller, Buyer agrees to purchase this committed inventory.

3. **Terms of Payment.** Payment terms are NET 30 unless otherwise provided in the contract. Payments shall be made to Seller at the address specified in the invoice, without any offset or deduction for any reason. Buyer waives all rights of setoff. Prices are F.O.B. Seller's shipping point unless otherwise stated in the contract. Payment terms for tooling are 50% upon design approval and 50% after first article dimensional approval. When any payment is not paid on or before its due date, Buyer agrees to pay a late charge on the sum outstanding, from the due date for receipt of payment to the actual date of receipt of payment, at a rate of 1.5% per month on the unpaid balance. If a payment is not paid on or before its due date, Buyer agrees that Seller may also cease performance under any and all of Buyer's purchase orders whether or not related to the late payment. Whenever, in the judgment of Seller, the financial condition of the Buyer does not justify the continuation of production or shipment on the specified terms of payment, Seller may require full or partial payment in advance. Seller shall have a security interest in all tools, molds, and dies and other property of Buyer, which come into the possession of Seller, as security for all sums owing from Buyer to Seller.

4. **Changes.** Changes in the work to be performed under the contract may be made only if Buyer submits written instructions for such changes and if Seller accepts those changes in writing. If any such approved changes in drawings, materials, quantities, dates of performance or design of the part, units, tools, or fixtures increase Seller's costs, Seller may condition approval of any such change on agreement by Buyer to a price increase to recoup such cost increase.

5. **Price.** Prices are in US Dollars unless otherwise specified in a formal VSS quotation and are subject to change. If a raw material component or service provider raises its prices or imposes a surcharge on Seller, Seller may, at its option, request to increase prices and or surcharges and Buyer agrees to accept such increases until the term of such price increases conclude or until the termination of the contract to which the Terms and Conditions apply is reached. All orders are accepted subject to Seller's price in effect at time of shipment.

6. **Cancellation/Reschedule of Purchase Orders.** Neither this contract nor any related purchase order may be terminated, canceled or modified (in whole or in part) except with Seller's written consent. In the event of any termination or cancellation of all or part of this contract or any purchase order by Buyer, Buyer agrees to pay Seller for all reasonable and allocable materials, material management, labor, overhead and general and administrative costs and expenses incurred as a result of any such termination or cancellation. By way of illustration and not limitation, Seller's costs incurred by reason of Buyer's termination or cancellation may include the storage costs for the items to be purchased, and costs associated with relocating the production to an alternate source, as well as the costs of unreimbursed and/or unamortized research and development costs, capital equipment, tooling, and other property and supplies of Seller needed to produce and which are unique to the goods. In the event of such termination or cancellation and upon receipt of payment as described above, all completed goods, assemblies in process, components and any tooling, and equipment owned by Buyer and furnished to Seller under this contract shall be returned to Buyer in accordance with instructions specified by Buyer.

7. **Delivery.** Seller reserves the right to schedule its production and make deliveries according to firm release provided by Buyer. In circumstances where Buyer specifies deliveries that do not conform to Buyer's previously received releases, Buyer will be responsible for any resulting increase in cost, including handling and insurance charges and storage charges. In the event delay is caused by Buyer's failure to furnish information necessary for Seller's performance, Seller may extend the shipment date for a reasonable time in proportion to the period of Buyer's delay. Seller will not be liable for any delay in performance of this contract or delivery of goods when the delay is caused directly or indirectly by fire, flood, accident, riot, acts of God, war, terrorism, governmental interference, strikes or other labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays, failure of tooling or the repair, maintenance or rehabilitation of the tooling, or any other cause or causes whatsoever beyond its control. Seller reserves right to charge a minimum \$250.00 administration fee for rush orders or orders requested by Buyer to be filled outside of reasonable lead-times.

8. **Risk of Loss.** Buyer assumes all risk of loss of goods upon delivery by Seller to carrier. Seller agrees to package the goods, put them in the possession of a carrier, make appropriate arrangements for their transportation, and obtain and deliver documents necessary to enable Buyer to obtain possession of the goods. Seller shall not be obligated to obtain insurance or to prepay transportation costs. Buyer agrees to pay all loading, unloading and other charges incidental to transportation. Seller will attempt to follow Buyer's shipping instructions, but may make reasonable changes thereto. Whether or not Seller pays shipping charges, risk of loss shall pass to Buyer upon delivery of the goods to a carrier. Breach of this contract shall have no effect upon this provision controlling the risk of loss.

9. **Limited Warranties and Remedies.** Seller warrants for a period of 30 days that the Parts shall be free from defects in material and workmanship and shall conform to the design and description determined in a signed Statement of Work, drawings, award letter or other mutually signed documents. THIS WARRANTY SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. There are no other representations of warranties or guaranties applicable to the sale of the Parts unless otherwise agreed to in writing by an officer of Seller. Improper installation, misuse, use in applications outside of the specifications of the Parts, failure to maintain the Parts in accordance with applicable standards, alteration of the Parts or other similar circumstances will void any warranty for the Parts. Buyer's exclusive remedy for any warranty claim or for any other claim arising out of the purchase of the Parts will be the replacement of the Parts, free of charge, FOB Seller's facility, or, at Seller's option, a credit in a fair amount not to exceed the aggregate purchase price for the Parts, which are proven to be defective within the Warranty Period. As a condition precedent to any replacement or credit under this paragraph, Seller shall have the right to request and obtain reasonable evidence of and impose reasonable requirements for submission of a warranty claim. Buyer must return 100% of the purportedly defective parts or a statistically relevant share as mutually agreed upon for testing by Seller. SELLER WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES SUSTAINED BY BUYER INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE, PUNITIVE OR EXEMPLARY DAMAGES, LOSS OF USE OF THE PARTS, COST OF CAPITAL, COST OF ANY COVER, COST OF PLANT SHUTDOWNS OR CLAIMS BY BUYER'S CUSTOMERS FOR ANY DAMAGES. This remedy applies to limit the damages recoverable regardless of the nature of the Buyer's claim, whether in tort, contract, equity, breach of warranty, negligence or strict liability and regardless whether the defect is due to Seller's negligence or defect in the product.

10. **Tooling.** Buyer's tools, molds and dies ("tooling") in the possession of Seller are at the risk of Buyer, and Seller does not undertake to insure such property. Seller will be responsible for normal maintenance of all tooling necessary to produce the goods. Buyer, however, will be responsible for major repairs, rehabilitation and replacement of its tooling. Notwithstanding any return of its tooling to Buyer, Buyer shall acquire no interest in any proprietary design and/or processing information evident in the tooling used by Seller to produce the goods for Buyer. Buyer's tooling which is used to produce the goods that are the subject of this contract shall not be removed from Seller's possession unless Seller fails to deliver parts complying with mutually agreed upon specifications and delivery schedules, and fails to make reasonable progress toward compliance after written notice from Buyer. In addition, Buyer grants Seller a security interest in all Buyer owned tooling held by Seller until all amounts owed to Seller by Buyer are paid.

11. **Ownership of Intellectual Property.** Seller is the owner of all right, title and interest in and to any technology (in all of its applications and iterations) used in the manufacture of the Parts (the "Technology") in which it has a patent, trademark of proprietary right and the Technology shall not be considered a work for hire regardless as to whether it was designed, conceived or created for Buyer. Seller does not grant to Buyer any ownership, license or any other rights in and to the Technology even though Buyer will from time to time pay Seller for parts that include the Technology. Neither Buyer nor an entity at Buyer's direction may remanufacture, reverse engineer, manufacture, import, export or otherwise utilize Technology other than pursuant to a separate and specific Technology Agreement signed by an officer of Seller. Seller warrants only that the Parts will be delivered free of rightful claims of any United State patent or trademark provided, however, that this warranty shall not apply to claims for infringement to the extent that the Parts are: (i) manufactured to Buyer's specifications; (ii) used in combination with products not purchased from Seller which infringe upon a patent covering the combination; or (iii) used in a manner not reasonably anticipated by Seller. Seller's obligation hereunder is conditioned upon Buyer giving Seller prompt written notice of any infringement claim and cooperating fully with the defense of such claim. Seller shall be entitled, at its option, to obtain a license on Buyer's behalf for the products that allegedly infringe, to modify the Parts in such a way that it does not infringe, or replace the Parts with a similar part which does not infringe on the intellectual property right.

12. **Dispute Resolution.** Seller and Buyer will first endeavor to resolve through good faith negotiations any dispute arising under this Contract. If a dispute cannot be resolved within 45 days of a claimed breach of the Contract, either party may request non-binding mediation by a mediator approved by both parties or absent that approval, by the National Center for Dispute Resolution. If mediation fails to resolve the dispute within 30 days after the first mediation session, either party may submit the dispute to binding arbitration by notice to the other party. Any arbitration shall be conducted in Grand Rapids, Michigan. The arbitration proceedings will be conducted in accordance with the rules of the American Arbitration Association and this Section 13. The parties agree that a court of competent jurisdiction may render judgment on and enforce any arbitration award. The cost of any arbitration shall be borne evenly by the parties, and each party shall bear its own attorneys' fees and other expenses in resolving any dispute related to this contract. While arbitration proceedings are pending, the parties will continue to perform their obligations under the Contract without setoff for any matters being contested in the arbitration proceeding.

13. **Seller's Financial Review** Seller shall have no obligation to provide any of its financial information to Buyer, including as it relates to Buyer owned tooling and/or capital equipment. Upon a default and a written request by Buyer, Supplier will only be required to produce financial information relative to the default and ability to perform its obligations in the future after mutually agreed to procedures have been established for the review of actual and forecasted financial information.

14. **Buyer's Contracts with its Customer** Buyer acknowledges that Seller is not bound by any terms and conditions imposed upon Buyer by Buyer's customer, whether or not Seller has notice of such terms. Regardless as to whether Buyer was directed to use Seller for the manufacture of parts, Buyer's obligations to Seller under the purchase order and these Terms and Conditions will not be affected by: (i) the filing of a bankruptcy or insolvency proceeding or an assignment for the benefit of creditors by or against Buyer's customers under the laws of any country, (ii) a consensual, negotiated or court imposed or authorized modification or termination of the contract between Buyer and its customer, (iii) the failure of Buyer's customer to timely pay for the components which include Seller's parts.

15. **Assignment and Delegation.** No right or interest in this contract shall be delegated or assigned by Buyer without the written permission of Seller. Any attempt at assignment or delegation shall be void unless made in conformity with this paragraph. Buyer warrants that it is purchasing for its own account and not as an agent.