



STANDARD TERMS & CONDITIONS OF SALE

THE SALE OF PRODUCTS AND SERVICES ("PRODUCTS") BY ABACUS TECHNOLOGIES, ARE SUBJECT TO THESE TERMS AND CONDITIONS ("AGREEMENT") REGARDLESS OF OTHER OR ADDITIONAL TERMS OR CONDITIONS THAT CONFLICT OR CONTRADICT THIS AGREEMENT IN ANY PURCHASE ORDER, DOCUMENT, OR OTHER COMMUNICATION ("ORDER"). PREPRINTED TERMS AND CONDITIONS ON ANY CUSTOMER ("CUSTOMER") DOCUMENT AND/OR ABACUS' FAILURE TO OBJECT TO CONFLICTING OR ADDITIONAL TERMS WILL NOT CHANGE OR ADD TO THE TERMS OF THIS AGREEMENT.

1. ACCEPTANCE AND CANCELLATION OF ORDERS

All orders are subject to acceptance in writing by Abacus Technologies or a duly authorized agent of Abacus Technologies. Any written acknowledgement of receipt of an order shall not, in and of itself, constitute such acceptance. Orders accepted by Abacus Technologies may be cancelled by Customer upon written consent of Abacus Technologies provided such order is not "NC/NR" or "Non-Cancelable/Non-Returnable", "Non-Standard Products" or governed by a Purchase Agreement Letter. Non-Standard Products are defined as Products that are special orders, custom orders, orders for non-standard products, products not customarily in stock or orders for value-added products. Non-standard products are non-cancelable and non-refundable. In the event of cancellation or other withdrawal of an order for any reason, and without limiting any other remedy which Abacus Technologies may have as a result of such cancellation or other withdrawal, reasonable cancellation or restocking charges shall include all expenses incurred and commitments made by Abacus Technologies, and shall be paid by Customer to Abacus Technologies. Customer requests to reschedule are subject to acceptance by Abacus Technologies in its sole discretion. Orders may not be canceled or rescheduled after the order has been submitted by Abacus Technologies to the shipment carrier. Abacus Technologies reserves the right to allocate sales and limit quantities of selected Products among its customers in its sole discretion. Product specifications and availability are subject to change without prior notice.

2. RETURNS

Customer must notify Abacus Technologies within 30 days from date of shipment of any RMA requests due to customer error or change in demand. (See ABACUS TECHNOLOGIES WARRANTY for further information.) Returns are normally accepted when completed within 30 days of the ship date. If Abacus Technologies agrees to issue an RMA as a courtesy due to customer error or change in demand, a restocking fee may apply and return freight charges must be prepaid by customer. Abacus Technologies will not accept COD return shipments. Customer must contact a sales representative and receive a valid Return Materials Authorization Number and addressing instructions prior to returning product. The foregoing statements concerning Returns do not apply to NON-CANCELABLE/NON-RETURNABLE ORDERS. (See the NON-CANCELABLE/NON-RETURNABLE ORDERS section in these terms.)

3. ANTI-COUNTERFEIT CLAUSE

Only products originally shipped from Abacus Technologies or from a supplier at Abacus Technologies' direction (drop-ship) will be returned to Abacus Technologies. All others will be promptly quarantined and disposed of or returned to the customer. By a Customer returning products to Abacus Technologies, the Customer certifies that the products were purchased from Abacus Technologies and there has been no substitution in whole or part of same product from another supplier, distributor or other such source of the product. The return should be in the original packaging (manufacturer or Abacus Technologies), in unused condition (except



defective). ESD sensitive products should not be opened except under controlled conditions. All returned product shall be inspected and verified against Abacus traceability records included lot number and/or date code data.

4. PRICE

Orders are billed at the prices in effect at the time of shipment. Prices will be as specified by Abacus Technologies and will be applicable for the period specified in Abacus Technologies quote. If no period is specified, quoted prices will be applicable for thirty (30) days. Prices are subject to increase in the event of an increase in Abacus Technologies' costs or other circumstances beyond Abacus Technologies reasonable control. If Customer does not purchase the quantity upon which quantity prices are based, Customer will pay the non-discounted price for the quantity actually purchased and/or a cancellation or restocking fee. Prices are exclusive of taxes, impositions and other charges, including sales, use, excise, value-added and similar taxes or charges imposed by any government authority, international shipping charges, forwarding agent's and broker's fees, bank fees, consular fees, and document fees.

5. TERMS OF PAYMENT

All payments must be made in the currency billed on the original invoice. Credit cards accepted include major credit cards, purchase cards, and major bank debit cards including MasterCard, VISA, Discover, and American Express. Credit Card billing information must be verified on new customers prior to shipment of order. Payment via net thirty (30) days is available provided approval of bank and trade references or as otherwise specified by Abacus Technologies.

Prepaid Wire Transfer/EFT/Proforma: Customers can wire the funds to our bank. After your order is placed we will e-mail a Proforma invoice which includes our bank information, the merchandise total and shipping charges. We will reserve stock for your order for 72 hours on orders awaiting funds. Orders will be canceled after 20 business days if funds have not been received. Customer is responsible for duties and taxes.

For All Orders Customer agrees to pay the entire net amount of each invoice from Abacus Technologies pursuant to the terms of each such invoice, without offset or deduction. Orders are subject to credit approval by Abacus Technologies, which may in its sole discretion at any time change the terms of Customer's credit, require payment in cash, bank wire transfer/EFT or by official bank check, and/or require payment of any or all amounts due or to become due for Customer's order before shipment of any or all of the Products. If Abacus Technologies reasonably believes that the Customer's ability to make payments may be impaired or if Customer fails to pay any invoice when due, Abacus Technologies may suspend delivery of any order or any remaining balance thereof, until such payment is made or cancel any order or any remaining balance thereof. Customer will remain liable to pay for any Products already shipped and all Non-Standard Products ordered by Customer. Customer agrees to submit such financial information as Abacus Technologies may reasonably require for determination of credit terms and/or continuation of credit terms. Checks are accepted subject to collection and the date of collection will be deemed the date of payment. Any check received from Customer may be applied by Abacus Technologies against any obligation owing by Customer to Abacus Technologies under this or any other contract, regardless of any statement appearing on or referring to such check, without discharging Customer's liability for any additional amounts owing by Customer to Abacus Technologies. The acceptance by Abacus Technologies of such check will not constitute a waiver of Abacus Technologies' right to pursue the collection of any remaining balance. If Customer fails to make payment when due, Abacus Technologies may pursue any legal or equitable remedies, in which event Abacus Technologies will be entitled to reimbursement of costs for collection and reasonable attorneys' fees. There is a \$25 (USD) service charge on all returned checks.



6. SALES TAX

US Shipments

When required by law Abacus Technologies will collect Federal, State and/or Local sale, use, excise, and other taxes that apply to a Customer's shipment. These taxes are in addition to the purchase price of the Products subject to an order. Customer will remit the correct tax unless customer is tax exempt and Abacus Technologies has a valid signed tax exemption certificate on file.

INTERNATIONAL Shipments

All applicable VAT, PST, HST, and/or GST charges along with brokerage fees will be the responsibility of the Customer and due at the time of delivery.

7. DELIVERY AND TITLE

All shipments by Abacus Technologies are F.O.B. point of shipment from Abacus Technologies' facility and the amount of all transportation charges will be paid to Abacus Technologies by the Customer in addition to the purchase price of the Products. Subject to Abacus Technologies' right of stoppage in transit, delivery of the Products to the carrier will constitute delivery to Customer and title and risk of loss will pass to Customer. Abacus Technologies will make reasonable efforts to initiate shipment and schedule delivery as close as possible to Customer's requested delivery date(s). Customer acknowledges that delivery dates provided by Abacus Technologies are estimates only and that Abacus Technologies will not be liable for failure to deliver on such dates. Selection of the carrier and delivery route will be made by Abacus Technologies unless specifically designated by Customer. Abacus Technologies reserves the right to make deliveries in installments. Delay in delivery of one installment will not entitle Customer to cancel any other installment(s). Delivery of any installment of Products within thirty (30) days after the date requested will constitute a timely delivery. Delivery of a quantity that varies from the quantity specified shall not relieve Customer of the obligation to accept delivery and pay for the Products delivered.

8. ABACUS TECHNOLOGIES WARRANTY

Abacus Technologies extends a lifetime warranty for any defective or nonconforming product received. Product distributed by Abacus is reliable and free from known defects. Customer must notify Abacus Technologies within 30 days from date of shipment of any RMA requests due to order errors or change in demand. Abacus Technologies' liability arising out of any sale of products to Customer is expressly limited to either (1) Credit of the purchase price paid by Customer for such Products (without interest), or (2) Replacement of such Products, at Abacus Technologies' election, with such remedies exclusive and in lieu of all others. Customer's obligations and Abacus Technologies' remedies with respect to defective or nonconforming products, are solely and exclusively as stated herein. No warranty will apply if the Product has been subject to misuse, static discharge, neglect, accident, modification, or altered in any way.

9. LIMITATION OF LIABILITIES

IN NO EVENT SHALL ABACUS TECHNOLOGIES BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE

including, but not limited to, damages resulting from loss of profit or revenue, recall costs, claims for service interruptions or failure to supply downtime, testing, installation or removal costs, costs of substitute products, property damage, personal injury, death or legal expenses. Customer's recovery from Abacus Technologies for any claim shall not exceed the purchase price paid by Customer for the goods, irrespective of the nature of the claim, whether in warrant, contract or



otherwise. **CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD ABACUS TECHNOLOGIES HARMLESS FROM ANY CLAIMS BROUGHT BY ANY PARTY REGARDING PRODUCTS SUPPLIED BY ABACUS TECHNOLOGIES AND INCORPORATED INTO THE CUSTOMER'S PRODUCT.**

10. PRODUCT SAFETY NOTICE AND RESTRICTIONS

Products are intended for commercial use only. Products are traceable to the OEM manufacturer and Lot/Date Code where available and when requested at the time of customer order. Abacus Technologies does not determine the specifications or conduct any performance or safety testing of any products that it sells. Specification sheets provided to Customers are produced by the manufacturer or transcribed from information provided by the manufacturer. Abacus Technologies does not participate in any product safety engineering, product safety review or product safety testing. Abacus Technologies cannot provide any safety testing, safety evaluation or safety engineering services. Products sold by Abacus Technologies are not designed, intended or authorized for use in life support, life sustaining, human implantable, nuclear facilities, flight control systems, or other applications in which the failure of such Products could result in personal injury, loss of life or catastrophic property damage. This includes, but is not limited to, Class III medical devices as defined by the US Food and Drug Administration (FDA) and Federal Aviation Administration (FAA) or other airworthiness applications. If Customer uses or sells the Products for use in any such applications: (1) Customer acknowledges that such use or sale is at Customer's sole risk; (2) Customer agrees that Abacus Technologies and the manufacturer of the Products are not liable, in whole or in part, for any claim or damage arising from such use; and (3) **CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD ABACUS TECHNOLOGIES AND THE MANUFACTURER OF THE PRODUCTS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, COSTS, EXPENSES AND LIABILITIES ARISING OUT OF OR IN CONNECTION WITH SUCH USE OR SALE.**

11. STATEMENTS AND ADVICE

If statements or advice, technical or otherwise, are offered or given to Customer, such statements or advice will be deemed to be given as an accommodation to Customer and without charge. Abacus Technologies shall have no responsibility or liability for the content or use of such statements or advice. Abacus Technologies Technical support is provided by telephone and, therefore, extremely limited in scope which prevents us from the direct participation in the design of any customer products. We do not conduct product suitability studies or engineering reviews of products that we sell, nor for the final product that a Customer produces.

12. NON-CANCELABLE/NON-RETURNABLE PRODUCTS

From time to time, Seller will notify Buyer of a product that is "NC/NR", (Non-Cancelable/Non-Returnable) upon determining that an order requires such conditions of sale. Buyer understands that "NC/NR" products are obtained by Abacus Technologies from the manufacturer specifically for the buyer. Irrespective of circumstances, the buyer agrees that "NC/NR" products may not be cancelled, returned or rescheduled by the buyer without the agreement of both Abacus Technologies' supplier and the written consent of Abacus Technologies Electronics.

13. INTELLECTUAL PROPERTY

If an order includes software or other intellectual property, such software or other intellectual property is provided by Abacus Technologies to Customer subject to the copyright and user license, the terms and conditions of which are set forth in the license agreement accompanying such software or other intellectual property.



Nothing herein shall be construed to grant any rights or license to use any software or other intellectual property in any manner or for any purpose not expressly permitted by such license agreement. Unopened software may be returned for credit. Opened software may not be returned unless defective.

14. FORCE MAJEURE

Abacus Technologies will not be liable for delays in delivery or for failure to perform its obligations due to causes beyond its reasonable control including, but not limited to, product allocations, material shortages, labor disputes, transportation delays, unforeseen circumstances, acts of God, acts or omissions of other parties, acts or omissions of civil or military authorities, Government priorities, fires, strikes, floods, severe weather conditions, computer interruptions, terrorism, epidemics, quarantine restrictions, riots or war. Abacus Technologies' time for delivery or performance will be extended by the period of such delay or Abacus Technologies may, at its option, cancel any order or remaining part thereof, without liability by giving notice to Customer.

15. EXPORT CONTROL

Abacus Technologies is committed to compliance with all U.S. Export Regulations and Laws. Abacus Technologies will not sell or ship to countries embargoed by the [U.S. Treasury Office of Foreign Asset Control \(OFAC\)](#). Abacus Technologies will not knowingly sell or ship to individuals or organizations identified by the U.S. Treasury as Specially Designated Nationals and Blocked Persons. Abacus Technologies will not knowingly sell or ship products prohibited under Export Administration Regulations to individuals or organizations identified by the [U.S. Department of Commerce, Bureau of Industry and Security \(BIS\)](#). Abacus Technologies will not seek export licenses pursuant to Export Administration Regulations. Abacus Technologies participates in BIS Export Enforcement and OFAC transaction reporting. Furthermore, Abacus Technologies prohibits the re-export, brokering or transshipment of its products to any individual, organization or country prohibited by the OFAC or BIS. The sale, resale or other disposition of Products, and any related technology or documentation, are subject to the export control laws, regulations and orders of the United States and may be subject to the export and/or import control laws and regulations of other countries. Customer agrees to comply with all such laws, regulations and orders. Customer further acknowledges that it shall not directly or indirectly export any Products to any country to which such export or transmission is restricted or prohibited. Customer acknowledges its responsibility to obtain any license to export, re-export or import as may be required.

16. EXPORT CLASSIFICATION DISCLAIMER

Any use made of Abacus Technologies classifications, whether it be ECCNs or any variation of Harmonized Tariff codes, is without recourse to Abacus Technologies and at the user's risk. Export classifications are subject to change. If you export or re-export, your company, as the exporter of record, is responsible for determining the correct classification of any item at the time of export. Any export classification by Abacus Technologies is for Abacus Technologies' internal use only and shall not be construed as a representation or warranty regarding the proper export classification nor relied upon to make licensing determinations.

17. GENERAL

The Terms and Conditions may not be modified or cancelled without Abacus Technologies' written agreement. Accordingly, goods furnished and services rendered by Abacus Technologies are sold only on the terms and conditions stated herein. The sale of Products hereunder will be governed by the Terms and Conditions, notwithstanding contrary or additional terms and conditions in any order purchase order, planning schedule, acknowledgment, confirmation or any other form or document issued by either party affecting the purchase and/or sale of Products. Notwithstanding any terms and conditions on Customer's order, the information and



conditions on the Credit Application are controlling over Customer and Abacus Technologies. Any conflicting statements or terms listed on the Customer purchase orders, invoices, confirmations or other Customer generated documents ("Customer Documents"), whether heretofore or hereafter submitted, are negated by submission of the Credit Application and the issuance of credit by Abacus Technologies, and all different or additional terms and conditions contained in any Customer Documents are hereby objected to by Abacus Technologies. Abacus Technologies' performance of any contract is expressly made conditional on Customer's agreement to Abacus Technologies' Terms and Conditions of Sale, unless otherwise specifically agreed upon in writing by Abacus Technologies. In the absence of such agreement, commencement of performance and/or delivery shall be for Customer's convenience only and shall not be deemed or construed to be acceptance of Customer's terms and conditions or any of them. If a contract is not earlier formed by mutual agreement in writing, acceptance by Customer of any goods or services shall be deemed acceptance by Customer of the terms and conditions stated herein. No rights, duties, agreements or obligations hereunder, may be assigned or transferred by operation of law, merger or otherwise, without the prior written consent of Abacus Technologies. The obligations, rights, terms and conditions hereof will be binding on the parties hereto and their respective successors and assigns. The waiver or breach of any term, condition or covenant hereof, or default under any provision hereof, will not be deemed to constitute a waiver of any other term, condition, or covenant contained herein, or of any subsequent breach or default of any kind or nature. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction, or affecting the validity or enforceability of such provision in any other jurisdiction. The Terms and Conditions will be governed by and construed in accordance with the laws of the United States.