

## ASTARAS, Inc. U.S.A. FINANCIAL-LEGAL TERMS OF SALE

All sales by Astaras, Inc. ("Seller") to a customer ("Buyer") are subject to the following terms. "Goods" refers to the product or products being sold by Seller.

**1. Contract Formation; Entire Agreement.** These terms constitute Seller's offer to sell goods to Buyer. Seller objects to any different or additional terms and rejects any prior offers received from Buyer. Seller may withdraw or change this offer anytime before Buyer accepts the offer. If Buyer has not otherwise agreed to these terms, Buyer's acceptance of delivery of, or payment for, the goods will constitute Buyer's acceptance of these terms. Upon acceptance by Buyer, these terms and the terms on Seller's quotation and acknowledgment shall be the final, complete, and exclusive statement of the terms and conditions of the agreement between the parties. Any changes, modifications, or additions to these terms are binding and enforceable only if made in writing and signed by both parties.

**2. Prices.** The prices of goods will be Seller's prices in effect on the date of shipment. Prices are subject to change without notice and are exclusive of all federal, state, local, and foreign taxes of any kind, whether or not invoiced by Seller. Applicable freight charges will be added to each invoice. All excise, privilege, occupation, sales, use, personal property and other taxes (whether federal, state, local, or foreign) applicable to the sale, purchase, storage, use, or ownership of the goods, and the payment or collection of which Seller is liable, shall be paid by Buyer in addition to the price of the goods, whether or not the additional charges are reflected on Seller's invoice. Seller is required to charge applicable sales and use taxes unless Buyer provides Seller with a tax exemption certificate. Any payment that is not paid when due shall accrue a finance charge of 1.5% per month.

**3. Delivery and Delay.** Delivery of the goods shall be F.O.B. Seller's factory, but risk of loss of the goods shall pass to Buyer upon identification of the goods to the contract between Buyer and Seller. Shipping dates are estimates only, and time is not of the essence. Seller may ship all of the goods at one time or in portions from time to time. Seller shall have the right, but not the obligation, to determine the method of shipment and routing. Seller shall not be liable for damages resulting from any delay or failure to deliver goods caused in whole or in part by circumstances beyond Seller's control (including, but not limited to, casualty, labor trouble, accidents or unavailability of supplies or transportation), and the time for delivery shall be extended for the period of the delay. If Buyer causes or requests delay in the manufacture or shipment of goods, Buyer shall pay Seller for all costs, losses, and damages resulting from the delay. Seller shall not be required to ship the goods unless and until Buyer shall have paid in full the purchase price of all tooling that Seller shall have ordered for use in producing goods.

**4. Payment Terms.** Payment in full of the price is due thirty (30) days from the invoice date, without discount. All payments will be invoiced and must be in U. S. dollars. With respect to any or all purchases, Seller may, in its sole discretion, ship goods to Buyer C.O.D. or require Buyer to pay for goods prior to shipment or to provide security reasonably satisfactory to Seller to assure payment when due. A finance charge of 1.5 percent per month (18 percent per year), or such lesser rate as may be the maximum rate permitted by law, shall be assessed on all past due accounts. Seller may suspend performance under this agreement or any other agreement with Buyer until Buyer's account is current. Buyer shall pay all expenses incurred by Seller in collecting amounts due from Buyer, including attorney fees.

**5. Returns.** Buyer shall not return any goods to Seller except with a Returned Goods Authorization (RGA) number clearly marked on the package and referenced in the shipping documents, or, in the case of goods being returned for Warranty Evaluation, a valid WE number (see Paragraph 7). Buyer may

obtain an RGA number by providing Seller with the original purchase order number and/or the Astaras order number, the date of order, a description of the goods and reason for return. This information is found on the invoice for the goods. If, after investigation, Seller consents to the return of the goods, Seller will issue an RGA number to Buyer. Any goods returned for credit must be shipped to Seller freight prepaid, and Buyer shall pay Seller a restocking charge as established by Seller from time to time. Seller shall not in any event be required to accept return of any used, damaged, defaced, or obsolete goods. Buyer agrees that any credit issued by Seller will be used within six (6) months after issuance. If the credit is not used or a refund requested within six (6) months, any remaining credit balance will be automatically canceled and Seller shall have no further liability or obligation with respect to the credit balance.

**6. Destruction of Goods.** If the goods are destroyed in whole or in part, before risk of loss passes to Buyer, whether the destruction is caused by Seller's negligence or otherwise, Seller may, at its option, terminate this agreement and be excused from all obligations under this agreement without liability to Buyer.

**7. Warranty; Limitations.** Seller warrants to the original Buyer only that the goods will be free from defects in materials and workmanship at the time of delivery to Buyer. For purposes of this warranty, a defective item is an item that is found by Seller to have been defective in materials or workmanship, if the defect materially impairs the value of the goods to Buyer. If Buyer shall have approved a sample or drawing of, or specifications for, the goods, then the goods shall not be defective to the extent they conform to the sample, drawings, or specifications.

Seller's liability under this warranty shall be limited at its sole option to repairing or replacing any defective goods at Seller's factory or issuing a credit to Buyer for the purchase price of the defective goods. In any case, Seller shall have no liability under this warranty except for goods returned to Seller's factory, freight prepaid, and with a valid WE number (as mentioned in Paragraph 5) within ninety (90) days after delivery of the goods to Buyer. Seller's acceptance of any goods returned shall not be deemed an admission that the goods are defective, or in breach of any warranty, and if Seller determines that the goods are not defective based on Seller's accepted method of testing, the goods shall be reshipped to Buyer at Buyer's expense. All parts returned and retained by Seller shall become Seller's property. Seller will not accept or be liable for back charges for labor or repair costs incurred by Buyer without the prior written consent of Seller. This warranty shall not apply to any goods that have been altered or repaired, or that have been subject to misuse or negligence.

THE WARRANTIES HEREIN ARE IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. IN PARTICULAR, SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Seller shall not be liable for incidental or consequential damages arising from any product defect, delay, recall, nondelivery or other breach. Seller shall not be liable to Buyer in tort, including, but not limited to any claim for negligent manufacture of the goods or for the omission of any warning therefrom.

No employee, representative, agent or distributor of Seller except the President of Seller has authority to modify, expand or extend this warranty, to waive any of the limitations or exclusions, or to make any different or additional warranties with respect to the goods. On any resale of the goods, Buyer shall contractually limit its customer's rights and remedies against both Buyer and Seller to the same extent as Buyer's rights and remedies are limited under this warranty. Notwithstanding any other provision in this agreement, Seller

shall not be liable to a customer of Buyer for any modification, extension or expansion of this warranty by Buyer beyond the scope of this warranty or for any different or additional warranties made by Buyer with respect to the goods.

**8. Suitability.** Buyer shall determine the suitability of the goods for Buyer's intended use and shall assume all risk and liability whatsoever in connection with that determination. Many states and localities have codes and regulations governing sales, installation, and/or use of goods for certain purposes, which may vary from neighboring areas. Seller does not guarantee compliance with those local laws and regulations and shall not be responsible for Buyer's use of the goods. Before purchasing the goods, Buyer should review applicable national and local laws and regulations to be sure the goods are suitable for Buyer's intended use.

**9. Government Contracts.** Seller shall not be liable for making Seller's goods conform to any regulations applicable to use of the goods by the United States government unless specifically agreed to in writing between Seller and Buyer.

**10. Claims for Errors.** Claims for errors, omissions, damages, defects or shortages on any order must be made in writing and mailed within five (5) days after delivery of the goods to Buyer. A shortage claim must be accompanied by a sworn affidavit. If a claim is made by Buyer that calls for Seller's representatives to inspect before settlement of the claim, Buyer will be responsible for costs relative to the inspecting if Buyer's claim is found to be unwarranted or if the claim is denied for valid reasons. Failure to notify Seller of a defect in accordance with this paragraph shall be equivalent to acceptance of the goods.

**11. Intellectual Property; Hold Harmless.** If any goods are manufactured or sold by Seller to meet Buyer's specifications or requirements and are not a part of a standard line offered by Seller to the trade generally, in the usual course of Seller's business, Buyer agrees to indemnify, hold harmless and defend Seller against all liabilities, costs, damages, judgments and expenses (including attorney fees and costs) arising from any actual or alleged claim of unfair competition or infringement of any United States or foreign patent, trademark or copyright asserted with respect to the manufacture or sale of the goods.

**12. Tools and Equipment.** Any equipment (including, but not limited to, tools, dies, jigs, etc.) that Seller shall acquire or contract specifically for use on Buyer's order shall be and remain the property of Seller and always in Seller's possession and control. Any charge that Seller shall make to Buyer for tools and equipment shall be for their use only. In the event that Buyer shall furnish Seller with any materials or equipment belonging to Buyer, Seller will care for and store the materials but shall not be liable for loss or damage to them.

**13. Indemnification.** Buyer shall indemnify, hold harmless and defend Seller from any and all liabilities suffered or incurred by Seller as a result of, or in connection with, any act, omission or use of the goods by Buyer, its employees or customers, any breach of these terms by Buyer, and any modification, extension, or expansion by Buyer of the warranty contained in these terms. Liabilities shall include all costs, claims, damages, judgments and expenses (including incidental and consequential damages and attorney fees and costs).

**14. Remedies of Seller.** Seller shall have all rights and remedies provided by law in addition to the rights and remedies provided in these terms. Seller's rights and remedies shall be cumulative and may be exercised from time to time. In a proceeding or action relating to a breach of these terms by Buyer, Buyer shall reimburse Seller for reasonable costs and attorney fees incurred by Seller. No waiver by Seller of any breach by Buyer shall be effective unless in writing, nor operate as a waiver of any other breach or of any later breach of the same term. Seller shall not lose any right because Seller has not exercised the right in the past.

**15. Interpretation; Parol Evidence.** No course of dealing between Seller and Buyer and no usage of trade shall be relevant to supplement or explain any of these terms. Acceptance or acquiescence in a course of performance shall not be relevant to determine the meaning of these terms even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used, the definition contained in the Code shall control.

**16. Solvency and Security Interest.** Buyer represents that Buyer is solvent. Buyer grants to Seller a security interest in the goods sold by Seller to Buyer to secure payment of the price and all other indebtedness now and hereinafter owing by Buyer to Seller. Buyer authorizes Seller to file a financing statement evidencing this security interest.

**17. Safety Features.** Buyer shall, and shall instruct any other end user to, operate the goods properly and in accordance with any safety device, warning or operating instructions provided by Seller.

**18. Permits and Compliance.** Seller is not responsible for obtaining any permit, inspection or license that is required for operation of the goods. Buyer shall be responsible for the compliance of the goods with all applicable laws, ordinances, regulations, codes and standards.

**19. Intellectual Property and Confidentiality.** All inventions (whether or not patentable), devices, technologies, ideas, improvements, processes, systems, software and other works and matters that Seller creates or develops in the course of Seller's design, development or manufacture of the goods or performance of the services and all drawings and specifications that Seller provides to Buyer ("Intellectual Property") shall be Seller's sole property, and Buyer assigns, and agrees to assign, to Seller all right, title and interest that Buyer now has or in the future acquires in the Intellectual Property. Buyer shall not disclose or use any of the Intellectual Property or any information about Seller's business, operations or activities, except to the extent necessary for Buyer to use the goods or services.

**20. Period of Limitations.** No claim, suit or other proceeding may be brought by Buyer for breach of contract, breach of warranty, or any other claim against Seller arising out of these terms or relating to the goods after one (1) year from the date the cause of action accrued.

**21. Applicable Law; Venue.** This agreement between shall be considered to have been made in the State of Florida, and it shall be governed by and interpreted according to Florida law, without regard to principles of conflicts of laws. Any action arising out of or relating to these terms may be brought in any federal or state court in Florida having jurisdiction of the subject matter. Buyer irrevocably consents that any such court shall have personal jurisdiction over Buyer and waives any objection that the court is an inconvenient forum.

**22. Compliance with Laws; Export Control Laws.** Buyer shall comply with all applicable laws and regulations with respect to the business conducted or services performed with respect to the purchase or sale of Seller's products, including (without limitation) all applicable "Anti-bribery Laws," which prohibit the payment or transfer directly or indirectly of anything of value to governments, government officials, state-owned enterprises, political parties, political party officials, or to relatives or associates of such officials, in connection with obtaining or maintaining business or an improper business advantage. Buyer also will not participate in the purchase and re-sale of Seller's products or technology to any "prohibited person or entity" or to any person or entity in or for export to any country that is deemed to be a "prohibited country" under U.S. export control laws (currently including but not limited to Cuba, Iran, North Korea, Sudan, and Syria) or for use in nuclear, chemical, or biological weapons, or rocket or missile applications. Upon Seller's request, Buyer shall provide information in response to any reasonable request (including a written certification) regarding compliance with applicable laws, rules, and regulations.

