

## TERMS AND CONDITIONS OF SALE

### CONVOY TECHNOLOGIES, INC.

ALL TRANSACTIONS ARE GOVERNED BY SELLER'S TERMS AND CONDITIONS OF SALE. ANY PROPOSAL THAT INCLUDES DIFFERENT OR ADDITIONAL TERMS THAT VARY FROM CONVOY TECHNOLOGIES, INC. ("SELLER") TERMS AND CONDITIONS OF SALE ARE OBJECTED TO AND DISALLOWED. NOTWITHSTANDING THE FOREGOING, ANY SUCH COUNTERPROPOSALS BY BUYER SHALL NOT OPERATE AS A REJECTION OF THE CONTRACT OF SALE, BUT AS A REJECTION OF THE ADDITIONAL OR DIFFERENT TERM(S)

**1. FORMATION OF CONTRACT.** An order is deemed by Seller to be an offer to purchase, which Seller may accept or reject in its sole discretion. Seller's acceptance of an offer to purchase is binding on Seller only if made by written instrument or, if not by written instrument, by shipment of the products ordered (and acceptance by shipment shall only be binding as to the portion of the order actually shipped by Seller). Any automatic or computer generated response to an order by Seller's internal electronic data exchange system, if available, or otherwise shall not be deemed acceptance of an order. Seller's acceptance is subject to Seller's Terms and Conditions of Sale stated herein.

**2. CREDIT.** Seller may, but shall not be obligated to, grant credit terms to Buyer. Acceptance of any order is subject to final credit approval by Seller. Seller reserves the right to cancel any sale if Seller deems Buyer unable to pay for any products. Seller reserves the right, in its sole discretion and without prior notice, to deny, change or limit the amount or duration of credit to be allowed Buyer, either generally or with respect to a particular purchase order, and may require cash payments in advance or security satisfactory to Seller.

**3. COST OF DELIVERY, TAXES AND OTHER CHARGES.** Buyer shall pay the costs of delivery of the products. Buyer shall pay all sales, use, excise or similar taxes, all duties or tariffs or other charges, which Seller is required to pay, or to collect and remit, to any Government (national, state or local) and which are imposed on or measured by the sale.

**4. TRANSFER OF PROPERTY AND RISK OF LOSS.** Seller retains the right and title to the products sold to Buyer until Seller is paid in full for the products. Buyer shall obtain the right and title to the products upon payment to Seller of the purchase price and any taxes, excise or other charges. The risk of loss, including, but not limited to the risk of loss, theft, damage or destruction of the products, transfers to Buyer for all domestic U.S. shipment FOB Seller Facility and for all international shipments EXW Seller's Facility; all in accordance with Incoterms 2010 or as amended.

**5. NO SET-OFF.** Buyer shall have no right of set-off or withholding, and no deduction of any amounts due from Buyer to Seller shall be made without Seller's prior, express written approval.

**6. PATENTS.** Sellers reserves the right to discontinue deliveries of any products, the manufacture, sale or use of which would, in Seller's opinion, infringe upon any U.S. patent, trade mark or design now or hereinafter issued, registered, or existing and under which Seller is not licensed.

**7. DISCLAIMER OF WARRANTIES.** THE WARRANTIES SET FORTH HEREIN OR IN SELLER'S WARRANTY DOCUMENTS WITH RESPECT TO A PRODUCT ARE THE ONLY WARRANTIES MADE BY SELLER IN CONNECTION WITH THE PRODUCTS AND THE TRANSACTIONS CONTEMPLATED AS A RESULT OF THIS SALE. SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS TO BUYER OR ANY OTHER PERSON OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, AND SELLER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PRODUCTS SOLD HEREUNDER ARE SOLD ONLY TO THE SPECIFICATIONS SPECIFICALLY SET FORTH BY THE SELLER IN WRITING. SELLER'S SOLE OBLIGATION FOR A REMEDY TO BUYER SHALL BE REPAIR OR REPLACEMENT OF NON-CONFORMING PRODUCTS. BUYER ASSUMES ALL RISK WHATSOEVER AS TO THE RESULT OF THE USE OF PRODUCTS PURCHASED, WHETHER USED ALONE OR IN COMBINATION WITH OTHER PRODUCTS OR SUBSTANCES.

**8. LIMITATION OF LIABILITY.** No claim by Buyer of any kind including, but not limited to, claims for indemnification, whether as to quality or amount of product delivered or non-delivery, shall be greater in amount than the purchase price for the products in respect of which damages are claimed. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOSS BUSINESS OPPORTUNITIES, DAMAGE TO GOOD WILL OR REPUTATION, OR LOSS OF DATA, ARISING OUT OF, OR AS A RESULT OF, THE SALE, DELIVERY, SERVICING, USE OR LOSS OF THE PRODUCTS SOLD HEREUNDER, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

**9. INSPECTION.** Buyer shall inspect the products promptly upon receipt for non-conformity (including but not limited to non-conformity for quantity, quality, and/or defects). Failure by Buyer to provide Seller with

written notice of a claim within thirty (30) days from the date of delivery or, in the case of non-delivery, from the date fixed for delivery, shall constitute a waiver by Buyer of all claims with respect to such products.

**10. EXCUSES FOR NON-PERFORMANCE.** If the manufacture, transfer or receipt by either party of any products covered hereby is prevented, restricted or interfered with by reason of any event beyond the reasonable control of the party so affected, such party shall be excused from making or taking deliveries hereunder to the extent of such prevention, restriction or interference, and neither party shall be liable to the other for default or delay in performing, except with respect to Buyer's payment obligations.

**11. SELLER'S RIGHTS.** If Buyer should fail in any manner to fulfill the terms and conditions hereof, Seller may defer further shipments until such default is cured. Remedies provided herein shall be in addition to, and not in lieu of, other remedies that may be available to Seller. If for any reason, the quantities of the products covered hereby or of any materials used in the production of the products reasonably available to Seller shall be less than Seller total needs for its own use and for sale, Seller may allocate its available supply of products among its existing or prospective purchasers and/or its own departments, divisions and affiliates in such manner Seller deems proper in Seller's sole discretion, without thereby incurring liability on account of the method of allocation determined or its implementation or for failure to perform this Agreement.

**12. GOVERNING LAW.** This Agreement shall be construed, and the respective rights and duties of Buyer and Seller shall be determined, according to the laws of the State of Indiana, without giving effect to its principles of conflicts of laws. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

**13. DISPUTE RESOLUTION.**

Any claims or legal actions by one party against the other arising under these Terms and Conditions of Sale Agreement and/or any sale and purchase of products hereunder or any transaction contemplated hereby or concerning any rights under this Agreement shall be commenced and maintained in any state or federal court located in Indiana. Both parties hereby submit to the jurisdiction and venue of any such court. THE PARTIES FURTHER AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING FROM THE TERMS OF THIS AGREEMENT.

**14. NO ASSIGNMENT.** This contract between Buyer and Seller is not transferable by either party without the prior written consent of the other party, except that Seller may assign this Agreement without Buyer's

consent if the assignment is to a to an affiliate or if the assignment is carried out as part of a merger, restructuring, or reorganization, or sale or transfer of all or substantially all of Seller's assets.

**15. COMPLIANCE WITH LAWS; EXPORT LAWS.** Buyer and Seller shall comply with all applicable international, national, state, regional and local laws and regulations with respect to their performance of this Agreement. Buyer agrees to adhere to all applicable US Export laws and regulations with respect to the products.

**16. MISCELLANEOUS.** These Seller's Terms and Conditions of Sale are the sole and exclusive statement of the parties' understanding and agreement with respect to the transactions contemplated by this sale, notwithstanding any other terms that might be contained in any purchase order or other document received from Buyer or submitted to Seller. These Terms and Conditions of Sale constitute the entire agreement between the parties regarding the subject matter hereof and can only be modified or changed in writing and signed by authorized representatives of both parties. No waiver by Seller of any of Seller's Terms and Conditions of Sale or any breach hereof shall constitute or be deemed to be a waiver of any such term or any such breach in any other case. No waiver shall be deemed to occur as a result of the failure to enforce any term or condition of these Seller's Terms and Conditions of Sale. If any clause or portion hereof shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining clauses or portions shall remain in full force and effect. The paragraph headings are for convenience only and shall not be used in interpreting or construing these Seller's Terms and Conditions of Sale.