

TERMS AND CONDITIONS OF SALE

1. Agreement.

1.1 Agreement. These Terms and Conditions ("Terms") have been incorporated by reference into a Briton EMS Limited sales quotation, sales confirmation, sales order, contract, agreement or other written instrument issued or signed by an authorized employee of Seller (each, a "Seller Sale Document") regarding the sale of products built to Buyer's specification ("Products"). These Terms and the Seller Sale Document issued by Seller to Buyer shall be collectively referred to herein as the "Agreement." A sales quotation will expire on expiration date set forth therein. The quotation represents no obligation until Seller accepts a written purchase order and acknowledges acceptance.

1.2 Entire Agreement. The Agreement, including any attachments, exhibits or other written documents that are explicitly incorporated by reference by the text of the Agreement, constitutes the entire agreement between Seller and Buyer regarding the subject matter of the Agreement and supersedes all prior or contemporaneous agreements, representations, or understandings, written or oral, explicit or implied, concerning the subject matter of this Agreement. This Agreement may not be modified except in a writing signed by a duly authorized employee of Seller and Buyer.

1.3 Buyer Documents. Seller shall not be bound by the terms and conditions of any purchase order, order confirmation, acceptance or other instrument issued by Buyer (collectively, "Buyer Document"), unless such Buyer Document is counter-signed by an authorized employee of Seller. Seller's performance under the Agreement shall not, under any circumstances, be deemed Seller's acceptance of any of the terms and conditions contained in a Buyer Document. The sale of the Products is expressly made conditional on Buyer's acceptance of the Terms set forth herein.

1.4 Precedence. In the event of any conflict between the terms of a Seller Sale Document and these Terms, the terms and conditions of the Seller Sale Document shall take precedence.

2. Products. Upon the earlier to occur of Seller's execution of a confirming copy of Buyer's purchase order, the issuance by Seller of a sales order that Buyer accepts by executing a confirming copy or that Buyer does not immediately reject, or shipment of the Products by Seller, Buyer agrees to purchase the Products from Seller and Seller agrees to sell the Products (built to the specifications provided by Buyer) to Buyer, in accordance with and subject to the terms and conditions of this Agreement.

3. Purchase Price.

3.1 Prices for Products. The prices for Products covered by these Terms are those prices set forth in the Seller Sale Documentation. Seller's prices do not include sales, use, VAT, excise, or similar taxes, duties, transportation, shipping or insurance costs. In addition to the prices specified herein, the amount of any present or future sales, use, VAT, excise or other similar tax, duties and other charges applicable to the sale of the products hereunder shall be separately added to Seller's invoice paid by the Buyer, or in lieu thereof the Buyer shall provide Seller with a tax exemption certificate acceptable to Buyer and the taxing authorities.

4. Terms of Payment.

4.1 Payments. Unless otherwise agreed in the applicable Seller Sale Document, all payments are due and payable in full by Buyer within 30 days from the end of the month of the invoice. Buyer shall deliver payments to the bank account specified in Seller's invoice.

4.2 Currency. Buyer shall pay all amounts due in pound sterling GBP, unless otherwise provided in the applicable Seller Sale Document.

4.3 Taxes. Buyer shall promptly pay the amount of any sales, use, VAT, duties, excise or other similar tax (and all interest and penalties) applicable to the sale, transportation or use of the Products (other than amounts due on Seller's net income from such sale or use).

4.4 Late Payment. If any sum due to Seller is not paid by Buyer when due, then without prejudice to the Seller's other rights under the Agreement, that sum shall bear interest from the due date until payment is made in full at three (3)% per annum over the Bank of England base rate from time to time.

4.5 Buyer's Credit. Seller's performance under this Agreement shall at all times be subject to Seller's approval of Buyer's creditworthiness. Seller shall be permitted to terminate this Agreement, in whole or in part, or to suspend deliveries (required by the terms of the Agreement or under any other agreement between Seller and Buyer) and warranty service and shall be permitted to impose such other terms and conditions or security arrangements as Seller, in its sole discretion, deems appropriate at any time to ensure full payment by Buyer for the Products. Buyer represents and warrants that it is solvent at the time of placing any order and if Buyer becomes insolvent at anytime prior to delivery of the Products Buyer shall immediately notify Seller.

4.6 Security Interest. Buyer hereby grants to Seller a purchase money security interest in all Products, and in any proceeds thereof, including insurance proceeds, to secure payment of all amounts due under this Agreement until such amounts are paid in full. Buyer shall not, without Seller's prior written consent, relocate, sell, lease, or create additional liens other than the security interest described herein over the Products until Buyer has paid for all such Products in full. If Buyer defaults under any obligation arising under or in connection with this Agreement, Seller may pursue all remedies of a secured creditor provided under the applicable law. Upon Seller's request, Buyer covenants that it shall execute any and all documents requested by Seller to perfect Seller's security interest in any or all of the Products.

4.7 Notice of Payment Dispute. If Buyer intends to dispute any amount due under or related to this Agreement, Buyer must notify Seller in writing within 30 days of the date such payment is originally due and pay Seller any amounts that are undisputed. Buyer waives its right to dispute amounts or to bring or participate in any legal action involving a dispute of such amounts if such amounts not reported within such 30 day period.

5. Delivery and Acceptance.

5.1 Title and Risk of Loss. Unless otherwise provided in the applicable Seller Sale Document, all Products shall be delivered Ex Works Seller's manufacturing location (Incoterms 2010). Title and risk of loss or damage to Products pass to Buyer at such location.

5.2 Dates. Seller's delivery and performance dates are estimates only. Seller will use commercially reasonable efforts to deliver in accordance with the delivery or performance dates specified in the Seller Sale Document, but may change those dates as it deems necessary. Seller shall not be liable for failure to deliver or perform by such dates.

5.3 Shipping. All Products shall be shipped to the "Ship To" address designated in the Seller Sale Document. Seller shall provide at its expense commercial packaging adequate under normal conditions to identify and protect the Products during shipments by regular commercial carrier. Buyer may request special packaging at its expense. Unless Buyer requests specific carriers or methods of shipment, Seller shall ship to Buyer by regular commercial carrier selected by Seller. Buyer shall pay all freight and unloading costs. Unless Buyer requests specific insurance coverage or specific valuation amounts, Seller shall specify shipment without insurance coverage and at minimum valuation. Buyer shall pay all insurance

costs. Buyer assumes all risk of loss and damage after products are made available Ex Works (Incoterms 2010) Seller's manufacturing location including during shipment and Buyer shall file any damage claim forms required by the carrier or insurer.

5.4 Cancellations. Buyer may not cancel, delay, reschedule or otherwise vary any delivery of Products without Seller's written consent and such consent will be given only subject to adequate compensation for costs incurred in connection with the cancellation, rescheduling or variation. Upon written notice from the Seller to Buyer, Seller shall have the right to cancel, delay, reschedule or otherwise vary any delivery of Products if (i) Seller has insufficient stock to deliver the Products to fulfil the delivery; or (ii) Seller do not deliver to the Customer's area; (iii) one or more of the Products in the Seller Sale Document are listed at an incorrect price due to a typographical error or an error in the pricing information received by Seller from its suppliers. Seller shall promptly (and no later than within 30 days from the date of cancellation) credit Buyer for any payments made for the cancelled delivery of Products. Buyer's sole and exclusive remedies, and Seller's entire liability, for such cancellation shall be limited to the foregoing credit.

5.5 Acceptance. Buyer shall upon receipt of the Products, without delay and using due diligence, examine the Products as to their quality and quantity. The Products shall be deemed to have been received in agreed quantity and without apparent damage unless Buyer notifies Seller in writing to the contrary within a period of five (5) working days from the receipt of the Products.

6. Changes. Buyer may from time to time request changes to this order, including but not limited to, changes in drawings, designs, specifications, method of inspection, method of packaging, order period, rate of shipment, method of shipment, and/or place of delivery, or other provisions contained herein, by written instruction to Seller in a change order notice or letter from Buyer's purchasing department. Seller shall determine whether such change causes an increase or decrease in cost or time of performance of this order and thereafter shall notify Buyer's purchasing department in writing within thirty (30) days from the date of receipt of such change order notice, or letter, or within such other time limit as agreed to by Buyer and Seller, and a mutually satisfactory adjustment shall be negotiated. The agreed to adjustment shall be incorporated as part of this agreement by means of a written change order notice from Buyer's purchasing department that is accepted by Seller in writing.

7. Testing. If testing is expressly included in a Seller Sale Document, Seller shall perform such testing in accordance with Seller's standard testing procedures for the type of Products in effect on the date of testing.

8. Samples. Where a sample of the Products has been provided whether at the Buyer's request or otherwise it shall be for the Buyer to satisfy itself as to the satisfactory quality of the Products and that the Products will be suitable for the purposes required and intended for by the Buyer. Any provision of a sample shall not constitute a sale by sample.

9. Unused Stock. Seller shall have the right to charge for any unused stock of Products and parts and materials thereof that are surplus to the requirements of the Buyer. When a product, part or other materials have been specifically purchased by Seller for the Products, Buyer shall promptly (and no later than within 30 days from the date of Seller's invoice) reimburse Seller the cost of any Products and parts and materials thereof that remains unused following the completion of delivery of the Products under the relevant Seller Sale Document.

10. Excusable Delay. Seller shall not be responsible for any delay or non-performance of its obligations hereunder to the extent and for such periods of time as such delay or non-performance, defective performance or late performance is due to causes beyond its control. Excusable delays include, but are not limited to war, acts of government, fire, explosions, sabotage, epidemics, quarantine restrictions, strikes, lockout, embargoes, severe weather, delays in transportation, airline schedule, fuel shortages, or delays of suppliers or subcontractors.

11. Confidentiality.

11.1 Confidential Information. By virtue of this Agreement, the parties may have access to information that is confidential to the other ("Confidential Information"). Confidential Information will be limited the terms and pricing under this Agreement and all information clearly identified in writing as confidential. A party's Confidential Information shall not be deemed to include information that: (i) is or becomes generally known to the public through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure or (iv) is independently developed by the other party without use of or reference to the disclosing party's Confidential Information.

11.2 Restrictions on Disclosure and Use. Each party agrees to hold the other party's Confidential Information in strict confidence. Each party agrees, unless required by law, not to make the other party's Confidential Information available in any form to any third party for any purpose except to the extent necessary to exercise its rights under this Agreement, and to treat Confidential Information of the other party with the same degree of care with which it would treat its own confidential information of a like nature, and in no case with less than a reasonable degree of care. Each party agrees not to use the other party's Confidential Information for any purpose other than the performance of the Agreement. Each party agrees to limit the disclosure of Confidential Information to those of its employees and agents who have a need to know such Confidential Information, and each party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement. It will not be a breach of this Section if Confidential Information is disclosed pursuant to subpoena or other compulsory judicial or administrative process, provided the party served with such process promptly notifies the other party and provides reasonable assistance so that the other party may seek a protective order against public disclosure.

11.3 Other Confidentiality Agreements. If Seller and Buyer have entered into a separate agreement designed to protect the confidential information of either party transmitted in connection with the transactions described in a Seller Sale Document, then the terms of this Section 9 shall not be deemed to supersede, replace, remove, amend or otherwise alter any of the terms and conditions of such separate agreement, which agreement shall remain in full force and effect.

12. Warranty.

12.1 Warranty Terms. Seller warrants to Buyer (and to no other party) for a period of 12 months from original shipment that the Products shall be free from defects in material (other than consigned material) and workmanship. Defects in a repaired or replaced Product shall be covered to the extent of the unexpired term of the applicable warranty period.

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12.2 **Limitations.** The warranty set forth above shall not apply if (i) Seller is unable to reproduce the defect or error reported by Buyer; (ii) the defect or error is due to the incorrect installation or operation or use of the Product; (iii) Buyer has failed to timely report a defect or error in accordance with the procedures established by Seller to identify and report such problems to Seller's Customer Service Department; (iv) the Product has been repaired or modified, or attempted to be repaired or modified, without Seller's prior written consent or by any person other than Seller (v) the Product has been damaged by neglect, misuse, mishandling, failure of electrical power, electrical surges, electrostatic discharge, electrical circuit or system design or malfunction, user error, liquids, environmental factors or as a result of any other cause external to Product; (vi) the defect or error is related to a component failure of any consigned material, (vii) the defect or error is a result of Seller's compliance with Buyer's supplied specifications and/or manufacturing processes, (viii) the defect or error is due to a design flaw (ix) the defect or error is due to follow-on handling, processing, or manufacturing of Products after shipment of the Product from Seller or use or combination of the Product with the products or systems of Buyer or others (x) the defect or error is related to components provided by third party suppliers selected by Buyer, which defects Seller could not reasonably detect, prevent or control, (xi) the defect or error is related to software or firmware; or (xii) Buyer has not provided functional or other tests to Seller to adequately diagnose failures. The warranty set forth above is not transferrable and may not be relied upon by or enforced by anyone other than Buyer.

12.3 **Exclusive Remedies.** Buyer must report to Seller in writing any breach of the warranties contained in this Section 10 during the relevant warranty period. Products may be returned to Seller freight prepaid only after obtaining a Return Material Report Number from Seller. If after testing and inspection any such returned product is determined by Seller to be defective, Seller shall promptly repair or replace the Product and return it to Buyer freight prepaid. Buyer's sole and exclusive remedies, and Seller's entire liability, shall be limited to repair or replacement of defective Products as set forth herein. The foregoing notwithstanding, Seller may at Seller's election and in Seller's sole discretion, provide Buyer with a refund in lieu of repair or replacement of defective Products as set forth herein.

12.4 **Disclaimer.** EXCEPT AS SET FORTH IN THIS SECTION 10, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SELLER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT, AND WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE OR SAMPLES SUPPLIED. SELLER DOES NOT ASSUME OR AUTHORIZE ANY OTHER TO ASSUME FOR IT, ANY OTHER LIABILITY IN CONNECTION WITH THE PRODUCTS, INCLUDING LIABILITY ARISING OUT OF PRODUCT TESTING, DELIVERY, SERVICE OR USE.

13. **Limitation of Liability.** SELLER'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL PRICE ACTUALLY PAID BY BUYER FOR THE PRODUCTS COVERED BY THE AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 10 AND IN THE OTHER PROVISIONS OF THE AGREEMENT AND THE ALLOCATION OF RISK HEREIN ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN THE PARTIES, WITHOUT WHICH SELLER WOULD NOT HAVE ENTERED INTO THE AGREEMENT. SELLER'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN. NO LEGAL ACTION SHALL BE COMMENCED AGAINST SELLER, ITS SUBSIDIARIES OR AFFILIATES MORE THAN 12 MONTHS FOLLOWING THE OCCURRENCE OF THE EVENT ALLEGED TO GIVE RISE TO SUCH CLAIM. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS CONTRACT SHALL EXCLUDE OR RESTRICT SELLER'S LIABILITY FOR (I) DEATH OR PERSONAL INJURY RESULTING FROM THE NEGLIGENCE OF SELLER OR OF ITS EMPLOYEES WHILE ACTING IN THE COURSE OF THEIR EMPLOYMENT; (II) A BREACH OF ANY OBLIGATIONS IMPLIED BY SECTION 12 OF THE SALE OF GOODS ACT 1979 OR SECTION 2 OF THE SUPPLY OF GOODS AND SERVICES ACT 1982 OR (III) FRAUD OR FRAUDULENT MISREPRESENTATION.

14. **No Indirect or Consequential Damages.** IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES CAUSED BY BUYER'S FAILURE TO PERFORM ITS OBLIGATIONS, LOSS OF DATA, LOSS OF PROGRAMS, LOSS OF USE OF PROGRAMS, LOSS OF REVENUE, LOSS OF ANTICIPATED SAVINGS AND LOST PROFITS, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER EVEN IF SELLER HAS BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES..

15. Miscellaneous Provisions.

15.1 **Remedies.** The remedies described in various sections of the Agreement shall not be deemed the exclusive remedies available to Seller and Seller shall, in addition to all such remedies, also be entitled to all other remedies available to it under law, in equity and as specified elsewhere in the Agreement.

15.2 **Proprietary Rights.** Seller retains all rights, title and interest in its Intellectual Property Rights. Buyer does not acquire any other rights, express or implied, or license to Seller's Intellectual Property Rights. Buyer will acquire no rights in Seller Confidential Information which may be included in any derivative work unless expressly agreed otherwise. "Intellectual Property Rights" means patent, copyright, trademark, trade secret and any other intellectual property rights worldwide.

15.3 **Indemnity by Buyer.** Buyer shall indemnify and hold harmless Seller, its officers, directors, agents and employees from any claims arising from or related to any subsequent resale of the Products by Buyer or any sale by Buyer of Buyer's products that contain or incorporate the Products or any acts or omissions of Seller, its officers, directors, employees, agents or permitted assigns. Without limiting the generality of the foregoing, Buyer shall indemnify and hold harmless Seller from any claims for intellectual property infringement related to any Products that are manufactured to Buyer's design or specification. Buyer warrants that any Products that are manufactured to Buyer's design or specification, and their sale or use alone or in combination, will not infringe any Intellectual Property Rights of any third party.

15.4 **Relationship Between the Parties.** Each of Seller and Buyer is an independent contractor and neither party's personnel are employees or agents of the other party. The Agreement shall not be construed as creating an agency, partnership, joint venture or any other form of association between the parties. Except as expressly agreed by the parties in writing, neither party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.

15.5 **Notice.** Any notice, request, demand or other communication required or permitted hereunder will be in writing and will be deemed to be properly given upon the earlier

of (i) actual receipt by the addressee, (ii) five business days after deposit in the mail, postage prepaid, when mailed by registered or certified airmail, return receipt requested or (iii) two business days after being sent via courier (e.g., DHL) to the respective parties at the addresses indicated in the Seller Sale Document, (ATTN: Director) or to such other person or address as the parties may from time to time designate in a writing delivered pursuant to this Section.

15.6 **No Assignment.** Buyer may not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any rights or obligations under the Agreement without the prior written consent of Seller. Any purported assignment, or other disposition by Buyer will be void. Subject to the foregoing, the Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

15.7 **No Third Party Beneficiaries.** It is not the intention of the parties to confer a third party beneficiary right of action upon any third party or entity whatsoever, and nothing in this Agreement will be construed to confer upon any third party other than the parties hereto a right of action under this Agreement or in any manner whatsoever.

15.8 **Severability and Waiver.** In the event that any provision of this Agreement (or any portion hereof) is determined by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable, such provision (or portion thereof) will be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, will be deemed to be severed and deleted from the Agreement, while the remainder of the Agreement will continue in full force and remain in effect according to its stated terms and conditions. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

15.9 **Permits and Licenses.** Buyer shall be required to obtain and maintain all registrations, licenses, permits and/or approvals from relevant authorities, as may be necessary to store and operate the Products purchased by Buyer.

15.10 **Governing Law.** The Agreement shall be governed by and construed and interpreted in accord with the law of England and Wales, and the parties hereby agree that all matters arising out of or in connection with this contract shall be subject to the jurisdiction of the courts of England and Wales. If any part, term or provision of this contract not being of a fundamental nature be held illegal or unenforceable, the validity or enforceability of the remainder of this contract shall not be affected. The Agreement shall not be governed by the U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

15.11 **Costs of Collection and Other Legal Fees.** If Seller uses a collection agency to collect money owed by Buyer, Buyer agrees to pay the reasonable costs of collection. These costs include, but are not limited to, collection agency's fees, attorneys' fees, and arbitration or court costs.

15.12 **Export Administration.** Buyer acknowledges and agrees that the Agreement, including the delivery of the Products, may be subject to approval by export authorities in the United Kingdom, European Union and/or United States having jurisdiction over the export of the Products (or components of the Products). Seller shall have the right to terminate the Agreement, in whole or in part, and without liability, should Seller not obtain in a timely way all required export licenses and approvals necessary to export the Products. Buyer agrees to comply fully with all relevant export laws and regulations. Without limiting the generality of the foregoing, Buyer expressly agrees not to, and not to allow others to, export, direct or transfer Products to any destination, person or entity restricted or prohibited by the UK, EU or U.S. export laws and regulations including but not limited to the Export Control Act 2002, the Export Control Order 2008, EU Regulation 428/2009 and the Customs and Excise Management Act 1979 and other export controls of the United Kingdom as amended from time to time and the Export Administration Act, the regulations of the U.S. Department of Commerce and other export controls of the United States as amended from time to time.

15.13 **Construction.** The Agreement shall be interpreted fairly in accordance with its terms and without any construction in favor of or against either party.

[End of Terms and Conditions]