

GENERAL TERMS AND CONDITIONS OF SALE

1. **ACCEPTANCE.** All sales are subject to and expressly limited to, the terms and conditions stated herein, and any quotation, order acknowledgement, or any goods supplied by CHERRY Americas, LLC (Seller) are expressly conditional upon Buyer's acceptance of these terms and conditions. All different or additional terms and conditions proposed by Buyer in any form are expressly rejected. A purchase order shall become binding only upon Seller's written acceptance thereof or delivery of the goods to Buyer, whichever occurs first. By accepting goods and/or services, Buyer agrees that all purchases will be paid in full in accordance with the terms of sale as stated herein, unless provided otherwise on Seller's invoice.
2. **SPECIFICATIONS.** Specifications applicable to goods sold are limited solely to those furnished by Seller or expressly agreed to in writing by Seller. Unless otherwise specified, tolerances are standard commercial.
3. **CHANGES.** Seller reserves the right to make changes to the goods that do not adversely affect form, fit or function, with any change in price to be approved by Buyer. All changes requested by Buyer in the process or design of goods are subject to written approval by Seller and to reasonable changes in delivery and/or price as Seller determines is necessary. Reschedules of delivery are subject to approval by and at the sole discretion of Seller.
4. **LIMITED WARRANTY.**
 - a. Seller warrants that goods manufactured by Seller shall be free from defects in material and workmanship and shall substantially comply with Seller's specifications for a period of one (1) year from date of delivery. Seller's sole and exclusive obligation and Buyer's sole and exclusive remedy, for breach of warranty is limited, at Seller's sole option, to either repair or replacement of the defective or non-conforming good(s) or to an appropriate credit for the purchase price thereof. The warranty period for any repaired or replacement good shall be the remainder of the warranty period for the good which was replaced. Such goods must be shipped prepaid to Seller's factory within the warranty period and include Seller's return authorization number.
 - b. All warranty claims must be made in writing during the warranty period. Prior to Buyer's return of the goods, Seller may inspect at Buyer's plant any items claimed to be nonconforming, but in any event may reject claims determined not covered by warranty, and may return such goods at Buyer's expense. Seller shall not be liable for breach of the foregoing warranty arising out of or related to, directly or indirectly: (1) goods which have been modified or altered; or (2) goods that are defective due to misuse, abuse, neglect, accident, improper installation or repair, soldering or accident; or (3) goods sold as "used" or "refurbished," or goods received from any source other than Seller; or (4) any insignificant defect, including without limitation, any defects that do not affect the use of the goods intended by the Buyer; or (5) any non-reproducible computer bugs; or (6) defects arising out of parts, software or other material or instructions provided by Buyer; or (7) defects caused by use in a manner not approved in the applicable specifications; or (8) defects due to normal wear and tear.
 - c. The giving of or failure to give any advice or recommendations by the Seller shall not constitute any warranty by or impose any liability upon Seller. This Limited Warranty constitutes Seller's sole warranty. SELLER GRANTS NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, OR STATUTORY, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.
 - d. Goods are not designed or intended for use in online control of aircraft, air traffic, aircraft navigation or aircraft communications; in the design, construction, operation or maintenance of any weapons systems or nuclear facility; or in the design, construction, operation or maintenance of any applications intended to support or sustain life where personal injury or death may occur. Such use of any Supplier goods shall be at Buyer's risk and Supplier disclaims any liability for such use.
5. **PROPRIETARY RIGHTS.** If any good ordered by Buyer is manufactured according to designs or processes specified by Buyer, Buyer agrees to indemnify and hold harmless Seller, its affiliates, officers, agents and employees, from any and all expenses, loss, attorney's fees, cost, damages or liability that is or may be incurred as a result of actual or alleged infringement of patent, copyright or trademark rights due to Seller's compliance thereto.
6. **TITLE - RISK OF LOSS- PAYMENT TERMS - SHIPMENT.**
 - a. Title of goods and risk of damage or loss shall pass to Buyer at Seller's dock upon delivery of goods and transfer of possession to Buyer's designated carrier. Seller, however, reserves a security interest in the goods until final payment is received by Seller.
 - b. Payment terms are net 30 days from date of Seller's invoice. A service charge of 1 ½ percent per month, or the maximum rate allowed by law, whichever is lower, shall be made on any portion of Buyer's outstanding balance that is not paid within thirty (30) days after invoice date.
 - c. Transportation shall be performed by Buyer's designated carrier at Buyer's expense. Shipment terms shall be FCA Seller's dock subject to credit approval. Freight charges may be added to invoice or billed separately. Insurance is responsibility of Buyer, unless otherwise agreed in writing, in which case Seller may add charges to invoice or bill separately. Each shipment constitutes a separate sale. Failure to make one or more deliveries does not constitute cause for cancellation of any order by Buyer.
 - d. Seller reserves the right to make partial shipments and to submit invoices for partial shipments.
7. **SELLER'S REMEDIES.**
 - a. If Buyer fails to fulfill the terms of payment for any shipment, or the financial ability of Buyer becomes impaired in the judgment of the Seller, or should the Seller at any time consider that conditions do not warrant shipment on the terms for payment as stated on the Seller's invoice(s), Seller may demand cash or payment of satisfactory security with respect to all or part of the order, have the right to change the terms of payment, withdraw credit privileges, or defer or discontinue final shipment, or cancel the order pursuant to the provisions of Paragraph 11. Seller may also withhold shipments on any other order(s) of Buyer upon failure to pay any order as due.
 - b. Should Seller find it necessary to obtain assistance in collecting any past due balance, Buyer agrees to pay reasonable attorney fees, collection fees and/or court costs allowable by law.

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- c. If Buyer fails to make any payment as due, if a receiver shall be appointed for Buyer, if Buyer shall make an assignment for the benefit of creditors, or if a petition in bankruptcy shall be filed by or against Buyer, then a default shall exist hereunder, and Seller shall be entitled to all remedies and rights of a secured party. In addition, Seller may declare all amounts owing from Buyer immediately due and payable and may enter, without legal process, on the premises where the goods are located and repossess the same, and thereafter hold the same absolutely free from all claims of the Buyer. Buyer hereby waives all claims and rights of action for trespass or damages by reason of such entry, possession and removal. Seller may exercise all or any of the above remedies in addition to and not in lieu of any other remedy at law or equity to which Seller is otherwise entitled.
8. **DELAYS.** If a specific shipping date is not agreed to in writing by Seller, Seller shall not be liable for any loss or damages resulting from such delays. Whether or not Seller agrees to a specific shipping date, Seller shall not be liable for delay or failure to deliver due to wars, civil disturbances, strikes, accidents, fires, floods, storms, Acts of God, and inability to obtain necessary labor, energy, water, raw or finished materials or facilities, government priorities or allocations, delays in transportation or other causes beyond Seller's control.
9. **EXPERIMENTAL SALES.** In the event the goods or any portion thereof furnished to Buyer are identified as "prototypes", "samples", "for approval", "on consignment", "for evaluation", or other similar terms, Buyer agrees that such material or information is confidential and that it will be liable for any disclosure of such material or information other than to employees required for evaluation by Buyer. Furthermore, such goods shall be delivered on an "AS IS" basis, and the warranty provisions of Paragraph 4 shall not apply.
10. **RETURNS.** Returned materials will not be accepted unless authorization has been given by Seller. This authorization will be given an RGM number. This RGM number must be marked on the outside of each carton or the product will be refused at the door. Authorized returns must be received at Seller's dock no later than 30 days from the date of issuance of the RGM number. RGM's past that time will not be honored. Buyer's rights to repair or replacement are governed by the terms of Paragraph 4. Issuance of credit for returned items shall be made at Seller's discretion under Buyer's request. Buyer will not be entitled to return defective goods for cash refunds. Buyer must inspect goods immediately and no rejection or revocation of acceptance shall be permitted more than fifteen (15) days after delivery or upon use by Buyer of the goods, whichever occurs first.
11. **CANCELLATION.** No order once accepted by Seller can be cancelled by Buyer without Seller's written consent and only upon payment to Seller of all losses and expenses, including lost profits for the entire order. Seller may cancel an order if (a) Buyer's payments are in default on this or any other order, or Buyer breaches any other material provision hereunder, (b) substantial changes occur in the availability of raw materials or components provided by third party vendors, (c) events beyond Seller's reasonable control make it impossible to assure shipment, (d) Buyer becomes insolvent or is the subject of the filing of a bankruptcy petition, or makes an assignment for the benefit of creditors or fails to pay its debts as they come due, or (e) Seller has reasonable belief that Buyer is insolvent or will not pay in accordance with the terms herein.
12. **TAXES.** All applicable state and local taxes including, but not limited to, use, occupation, privilege, excise, rental and sales taxes shall be in addition to purchase price and shall be paid by Buyer to Seller or in lieu thereof Buyer shall provide Seller with a tax exemption certificate acceptable to all applicable taxing authorities. This obligation shall survive Buyer's payment.
13. **WAIVER.** The failure of Seller to insist in any one or more instances upon the performance of any of the terms or conditions herein, or to exercise any right hereunder, shall not be construed as a waiver of any other terms or conditions herein nor of the future performance of any term or condition or the future exercise of any such rights.
14. **SEVERABILITY.** If any provision of these terms and conditions is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of these terms and conditions will remain in full force and effect.
15. **LIMITATION OF DAMAGES.** SELLER'S LIABILITY HEREUNDER SHALL BE LIMITED TO SELLER'S INVOICED PRICE FOR THE GOODS. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY OTHER PERSON FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES RESULTING FROM THE USE OF OR INABILITY TO USE THE GOODS COVERED HEREBY, WHETHER ARISING FROM BREACH OR WARRANTY, NEGLIGENCE OR STRICT LIABILITY OF SELLER, OR OTHERWISE, OR FOR ANY MACHINE WORK, LABOR CHARGES, OTHER EXPENSE, LOSS OR DAMAGES, CAUSED BY DEFECTIVE MERCHANDISE. ANY ACTION HEREUNDER MUST BE COMMENCED WITHIN ONE YEAR OF ACCRUAL OF CAUSE OF ACTION.
16. **GOVERNING LAW.** The contract for the purchase of the goods which are the subject of this invoice shall be governed by the substantive laws of the State of Wisconsin.
17. **HEADING.** Headings are for convenience of reference only and shall not affect or limit the meaning of the provisions herein.
18. **CHECKS.** Checks marked "Paid in Full", including checks for disputed balances marked "Paid in Full," must be sent to the following person/address:

Credit Manager

Cherry Americas, LLC, 11200 88th Avenue, Pleasant Prairie, WI 53158 U.S.A.