

## TERMS AND CONDITIONS OF SALE

All quotations and sales by Falcon Electronics, Inc., its subsidiaries or affiliates ("Falcon") are subject to these terms and conditions and those on the front of this document.

1. Except as otherwise set forth on the front of this document: Terms of payment are net 30 days without any offset or deduction or right to retention from invoice date; prices are FOB Falcon's facility; and prices do not include any taxes, freight, handling, insurance, customs, duty or other similar charges, payment of which will be the sole responsibility of Customer. Prices are conditioned upon timely payment and any past due balance will accrue interest at the monthly rate of one and one-half percent. Freight charges may be constructed on the basis of standard carrier tariffs and may not reflect actual transportation costs. Falcon reserves the right to modify terms, prior to shipment, require payment in advance; or suspend, delay or cancel any shipment or order by reason of Customer's creditworthiness or should Customer fail to fulfill any obligation when due. Falcon shall be entitled to make partial deliveries or deliveries by installments. Each such delivery shall be construed as a separate contract and these T&C's shall apply to each such delivery.

2. In the absence of prior agreement as to shipping, Falcon may select a carrier. Falcon's responsibility for any loss or damage ends, and title passes, when products are delivered to the carrier, to Customer, or to Customer's agent (including, without limitation, any test house or value-added service provider), whichever occurs first. Customer will pay for storage charges if products are held by Falcon at Customer's request pending instructions or rescheduled delivery.

3. The delivery schedule appearing on the front of this document is approximate only. Falcon will make all reasonable efforts to deliver in accordance with the stated schedule but will have no liability for failure to do so. Falcon will not be held responsible for any delays at the manufacturer's factory that may affect delivery to Customer.

4. All products, and the components and materials utilized in any assembled or customized products, are covered by, and subject to, the terms, conditions, and limitations of the manufacturer's standard warranty, which warranty is expressly in lieu of any other warranty, express or implied, of or by Falcon or the manufacturer. Customer's exclusive remedy, if any, under these warranties is limited, at Falcon's election, to any one of (a) refund of Customer's purchase price, (b) repair by Falcon or the manufacturer of any products found to be defective, or (c) replacement of any such product. Customer acknowledges that except as specifically set forth or referenced in this paragraph, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY FALCON OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. FALCON ASSUMES NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR MANUFACTURER'S PRODUCT SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO FALCON BY OR ON BEHALF OF CUSTOMER. Use of the Customer's part number on this document or on any products is for convenience only and does not constitute any representation by Falcon with respect to the performance, specifications, or fitness of any part for any purpose. In all cases Customer must provide acceptable evidence of the defects and that the defective goods were returned to Falcon. Repair and replacement of goods does not prolong the warranty term. The Customer can not claim any warranty rights if he is in default with his obligations. The Customer is also obliged to notify Falcon immediately but in any event not later than one week after the Customer has obtained knowledge about any fault or defect with its customer or any end user. Each warranty expires in any event after 12 months of delivery by Falcon to the Customer. Falcon shall transfer to the Customer whatever transferable warranties and indemnities Falcon receives from its vendor(s) including any transferable warranties and indemnities respecting patent infringement, in which case no separate warranty will be granted by Falcon. Items quoted as Non-Cancellable/Non-Returnable (NC/NR), cannot be cancelled or returned (other than product failure under the aforementioned warranty terms) without prior written approval from Falcon Electronics, Inc. Executive Management.

5. Falcon retains a purchase money security interest in all products sold by Falcon to Customer, and in the proceeds of any resale of such products, until the purchase price and any other charges due to Falcon have been paid in full. Customer agrees to execute any financing statements Falcon may request in order to protect Falcon's security interest and hereby authorizes Falcon to execute and/or file any financing statements for products sold and delivered and irrevocably appoints Falcon its attorney in fact for the execution of such financing statements. Upon any breach by Customer of these terms and conditions, Falcon will have all rights and remedies of a secured party under the Uniform Commercial Code, which rights and remedies will be cumulative and not exclusive. Customer is responsible for all costs and expenses incurred by Falcon in collecting any sums owing by Customer (which may include, but are not limited to, collection agency and reasonable attorneys' fees). If Falcon incurs costs collecting on any judgment arising out of Customer's breach, Customer will be responsible for costs, and this provision will survive the entry of any such judgment. Falcon shall have the right to offset any sum owed by Falcon or any Falcon subsidiary to Customer against any sum owed by Customer to Falcon or any Falcon subsidiary. All transactions are governed by the laws of the State of New York. The parties waive any right to trial by jury.

6. Products are deemed accepted by Customer unless Customer notifies Falcon in writing within 10 days of delivery of product shortages, damage or defect. No returns may be made for any reason without a Return Authorization Form issued by Falcon. If Customer refuses to accept tender or delivery of any products or returns any products without authorization from Falcon, such products will be held by Falcon awaiting Customer's instruction for 20 days, after which Falcon may deem the products abandoned and dispose of them as it sees fit, without crediting Customer's account.

7. Falcon will not be liable for any failure or delay in its performance or in the delivery or shipment of products, or for any damages suffered by Customer by reason of such failure or delay, whether such failure or delay is caused by, or arises in connection with (without limitation), any fire, flood, accident, riot, earthquake, severe weather, war, governmental interference or embargo, strike, shortage of labor, fuel, power, materials or supplies, delay in delivery by Falcon's suppliers or any other cause or causes beyond Falcon's reasonable control. Falcon reserves the right to cancel without liability any order, the shipment of which is or may be delayed for more than 30 days by reason of any such cause. Falcon reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of, any product which is in short supply.

8. Customer will indemnify and hold Falcon harmless from any loss, cost or damage resulting from Customer's breach of the provisions of this paragraph. Orders are subject to approval by Falcon and the Contract shall be deemed to be entered into either when Falcon sends a written order confirmation, or when Falcon sends the goods. All quotations and sales are made only upon these terms and conditions and those on the front of this document. This document, and not any purchase order or other Customer document (which, if construed to be an offer is hereby rejected), will be deemed an offer or counter-offer and is a rejection of any other terms or conditions. Customer, by accepting any products, making any payments or ordering any products having previously received these terms and conditions, will be deemed to have assented to these terms and conditions, notwithstanding any terms contained in any prior or later communication from Customer and whether or not Falcon will specifically or expressly object to any of Customer's terms. Falcon's failure to object to any document, communication or act of Customer will not be deemed a waiver of any of these terms and conditions. Any addition or change to these terms and conditions must be specifically agreed to in writing by a duly authorized officer of Falcon before becoming binding on Falcon. All orders are subject to credit approval by Falcon, which may, in its sole discretion at any time, change the Customer's credit and payment terms.

9. If Customer's order is placed under a contract with the United States Government, Falcon agrees to comply with those contract provisions and regulations with which, pursuant to law, it must comply and of which Customer has, at the time of order placement, placed Falcon on notice. In no event will United States Government Cost Accounting Standards apply. All rights in technical data and software owned or licensed by Falcon or the manufacturer are hereby reserved and deemed restricted or limited. No provision of Customer's contract with the government will be binding on Falcon or the manufacturer except as expressly set forth in this paragraph.

10. Unless specifically otherwise agreed in writing by Falcon, Customer acknowledges that products sold by Falcon are not intended for and will not be used in life support systems, human implantation, nuclear facilities or systems or any other application where product failure could lead to loss of life or catastrophic property damage. Customer agrees that Falcon and the manufacturer of the goods are not liable, in whole or in part, for any claim or damage arising from such use

11. Any or all products may be subject to export or resale restriction or regulation, and Customer acknowledges that it will comply with such regulations or restrictions. Orders placed for items intended for export may be subject to completion of a Statement of Assurance and/or other vendor supplied export forms. Failure to comply with this policy will result in rejection/cancellation of order. Any or all products may have been imported. Country of origin information is as provided to Falcon by its suppliers and is, where applicable, located on the products themselves or the supplier's innermost packaging thereof.

12. Falcon certifies that it complies with all applicable requirements of Sections 6, 7 and 15 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.

13. Except for the warranty coverage referenced in paragraph 4, above, NEITHER FALCON NOR ITS SUPPLIERS WILL HAVE ANY LIABILITY OR OBLIGATION TO CUSTOMER OR ANY OTHER PERSON FOR ANY CLAIM, LOSS, DAMAGE, OR EXPENSE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE INADEQUACY OF ANY PRODUCTS FOR ANY PURPOSE, BY ANY DEFICIENCY OR DEFECT IN ANY PRODUCT (WHETHER OR NOT COVERED BY ANY WARRANTY), BY THE USE OR PERFORMANCE OF ANY PRODUCTS OR BY ANY FAILURE OR DELAY IN FALCON'S PERFORMANCE HEREUNDER, OR FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR LOSS OF BUSINESS OR PROFIT, WHETHER OR NOT CUSTOMER WILL HAVE INFORMED FALCON OF THE POSSIBILITY OR LIKELIHOOD OF ANY SUCH DAMAGES.

14. The performance of any value-added service may void the manufacturer's warranty and render products non-returnable. Orders incorporating such services are, accordingly, non-cancelable and the products are non-returnable. Any third-party value-added service provider is deemed to be an agent of Customer.

15. Any software included in or relating to products is supplied by the manufacturer. Falcon makes no representation or warranty with respect thereto and will have no liability in connection therewith. Customer agrees to comply with the manufacturer's or other requirements with regard to proprietary and similar rights in and to such software (including any requirement to enter into a separate license agreement and prohibitions against duplicating or disclosing the same), even if the seal on any "shrink wrapped" software has been broken by Falcon, and will indemnify Falcon against and hold it harmless from any and all liability, cost or expense arising from a breach or purported breach of such requirements.

16. Falcon may assign accounts receivable. In order to defray the cost of Customer account administration, any credit balance or other sum owed to Customer which remains unclaimed by Customer for a period of eighteen months will become the property of Falcon.

17. No order may be cancelled, rescheduled or reconfigured without Falcon's prior written authorization and, in such event, Customer will be liable to Falcon for any additional costs and expenses incurred by Falcon. Falcon requires 30 days advance notice from scheduled ship date to reschedule standard products and 60 days advance notice on all special or custom products. Falcon requires 60 days advance notice from scheduled ship date to cancel standard products and 90 days advance notice to cancel special or custom products.

18. Prices stated on quotations are valid for 30 days. Prices stated on orders are valid for products that are scheduled to ship within 12 months of receipt of Customer's order. Prices are subject to change by Falcon upon Customer rescheduling or reconfiguration of orders. Prices are also subject to change in response to supplier price increases, Customer's change in quantity and other circumstances beyond Falcon's control, whereupon, Customer may cancel the undelivered portion of any affected order by delivering written notice to Falcon prior to the shipment thereof and within 10 days of its receipt of notice of the price increase.

19. Falcon and the Customer shall each receive and maintain in confidence all proprietary information, trade secrets, and know-how ("Confidential Information") belonging to the other provided that such Confidential Information is not previously known, or generally available in the industry or in the public domain. Either party may disclose Confidential Information to the extent that it is required by law or government regulation, with notification to the other party as soon as possible. In the event of a breach by Customer of any provision hereof regarding disclosure of Confidential Information, Falcon shall be entitled to immediate and permanent injunctive relief. Falcon reserves the right to pursue any other remedies available to it for any such breach, including monetary damages.

20. In the event of conflict between these T&C's and any particular conditions in the purchase order of, or any other document with a particular Customer these T&C's shall prevail unless otherwise expressly agreed to in writing between Falcon and the Customer, in which case the remainder of these T&C's shall remain in force. Customer T&C's are not applicable.

21. These T&Cs shall supersede all earlier T&C's of Falcon.

22. If any of these terms and conditions is unenforceable it shall not affect the validity or enforceability of the remainder of that term and condition or these T&C's as a whole.

23. All changes to these T&C's must be agreed in writing. The same applies to this variation clause.

24. Customer is aware that product specifications may change over the course of time and shall inform itself about the future specifications and availability of any goods and services. Falcon cannot guarantee the ongoing supply of goods of a certain specification in the future.

25. (a) Falcon's liability shall be limited to direct loss and shall not include indirect or consequential loss. Hence, shall be excluded among others: loss of income, loss of turnover, loss by closure, increased production or operational costs, loss of customer base and loss of reputation. The Customer's recovery from Falcon for any claim shall not exceed the Customer's purchase price for the goods or services giving rise to such claim irrespective of the nature of the claim, whether in contract, tort, warranty or otherwise.

(b) Falcon shall not be liable for the loss of or damage to software programs during repair or upgrade of any goods whether or not the same are under warranty.

(c) The exclusion liability described in this article shall also apply for Falcon's employees and all other persons acting on its behalf.

26. Falcon reserves the right to sub-contract any part of any work or supply of any goods or services.

27. The contract or contracts to which these T&C's apply is between the Customer and Falcon only. No third party shall acquire any rights against Falcon and Falcon shall have no liability to any third party arising out of or in connection with any contract. Furthermore, the Customer shall indemnify Falcon against all actions, claims or demands by third parties in tort or otherwise arising directly or indirectly in connection with the goods (or the use of the goods) or the services provided, if such action, claim or demand is caused by or attributable to, even partially, the Customer.

28. Any notice required in these T&C's shall be in writing (by regular mail, fax or e-mail).

29. These T&C's shall be governed by and construed in accordance with the laws of the State of New York, the U.N. Convention on the International Sale of Goods excluded, and the courts of The United States (Eastern District of New York, Suffolk County). The State of New York shall have exclusive jurisdiction for all disputes arising in connection with these T&C's or relating thereto or in connection with any order, contract, delivery of goods or provision of services between Falcon and the Customer. Notwithstanding the foregoing, Falcon reserves the right to sue the Customer at the Customer's registered office.

FALCON ELECTRONICS, INC.