



6526 South Cottonwood Street  
Murray, UT 84107 USA  
801-973-9136

## Standard Terms and Conditions of Sale

1. Price: Seller reserves the right to change prices, delivery dates, and specifications herein after expiry of stated validity date.

2. Terms of Payment: Unless otherwise specifically agreed in writing, payment is to be made by 100% payment in advance of shipment. Partial shipments are acceptable and will result in partial advance payments unless otherwise mutually agreed to upon placement of the purchase order. Unless otherwise specified herein, contract price is in U.S. dollars, and payment shall be in U.S. dollars. Payments received by Seller beyond thirty (30) days from invoice date shall be subject to the assessment of interest at the rate of 2.5% per month.

3. Taxes and Duties: Purchaser shall be liable and responsible for the payment of all taxes, duties, levies, assessments, fees and other charges levied or imposed upon Purchaser including but not limited to demurrage, import duties, inland freight, contract registration fees. The Seller shall be liable and responsible for the payment of all U.S. taxes, duties, assessments or levies imposed upon the Seller within the USA in connection with this Contract.

4. Delivery: Unless otherwise specified, delivery terms are Ex Works (EXW) Coda Octopus Engineering, Inc., Murray, Utah, USA, as defined by INCOTERMS 2020. Risk of loss and damage shall transfer to Purchaser at shipping point. If for sales outside of the United States, the Purchaser is the importer of record. If Purchaser causes any delays, payments are to be made as though shipment had been made as specified and all expenses as a result of the delay including storage costs, if any, shall be at Purchaser's risk and cost.

5. Force Majeure: Seller shall not be liable for failure of performance if occasioned by Force Majeure which shall mean, but not be limited to events such as acts of god, war (declared or undeclared), riot, insurrection, civil war, public

disorder, weather, epidemic, strikes, freight embargos, government compulsion, component failures on test, transportation difficulties, inability to obtain equipment, materials or labor sufficient to fill its order (in which case Seller may apply or prorate shipments of its products to or among its customers as in its judgment is reasonable in the circumstances), inability to obtain export licenses or other event or circumstance beyond the control of Seller.

6. Warranty: Seller warrants new equipment manufactured by Coda Octopus Engineering against defects in material or workmanship at the time of delivery thereof, for a period of twelve (12) months from the date of shipment, provided Purchaser gives Seller prompt written notice. Other manufacturer's equipment, if any, shall carry only such manufacturer's standard warranty.

Seller's sole responsibility with respect to any equipment or parts is, at its option, (a) to repair or replace such equipment or parts upon the return FOB Seller's factory within the stated warranty period, or (b) to accept the return FOB Purchaser's point of installation, whereupon Seller shall either (a) issue a credit to Purchaser's account in an amount equal to an equitable portion of the total Contract price, without interest, or (b) if the total Contract price has been paid, refund to Purchaser an equitable portion, without interest. Seller assumes no responsibility for design characteristics of special equipment manufactured to specifications supplied by or on behalf of Purchaser. Seller shall not be liable for any expense whether for repairs, material, service or otherwise, incurred by Purchaser or modifications made by Purchaser to the equipment without prior written consent of Seller. EXCEPT AS SET FORTH HEREIN, AND EXCEPT AS TO TITLE, THERE ARE NO WARRANTIES OR ANY AFFIRMATIONS OF FACT OR PROMISES BY SELLER WITH REFERENCE TO THE EQUIPMENT OR TO MERCHANTABILITY, FITNESS FOR PURPOSE, INFRINGEMENT, OPERATIONAL



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EFFICIENCY, AND COMMUNICATIONS RANGE OR OTHERWISE, WHICH EXTEND BEYOND THE DESCRIPTION OF THE EQUIPMENT ON THE FACE HEREOF. In no event shall Seller be liable for any special or consequential damages including, but not limited to, loss of anticipated profits or revenue, cost of substitutive equipment, downtime costs, facilities or services, or claims of customers of Purchaser.

7. Title and Remedies: Title and risk of loss or damage shall transfer to Purchaser upon delivery Ex Works (EXW) Seller's facility, Murray, Utah, USA as defined in INCOTERMS 2020. Notwithstanding the foregoing, until full payment of all obligations of Purchaser (whether represented by notes, open account, judgment or otherwise), Seller reserves title to all the equipment furnished hereunder, whether or not the same is attached to realty, and the same shall be considered as personal property. If Purchaser defaults in paying or performing any of its obligations hereunder or Purchaser's financial stability changes, Seller may treat all amounts owing hereunder to be immediately due and payable, may deduct same from any other sums due or to become due to Purchaser, may withhold any shipments due Purchaser, or may unilaterally modify the terms of this order.

#### 8. Security Interest in Equipment Sold

The parties to this Purchase Order hereby agree that Coda Octopus Engineering as a secured party hereby acquires a security interest in the equipment sold hereunder, referred to as the collateral to secure payment and performance of all Buyer's obligations identified or set out in said Purchase Order. The Buyer shall not pledge, loan, mortgage, grant, or create any other security interest in the equipment purchased hereunder, or the proceeds of resale from such equipment until the payment of all obligations to the Seller secured under this Purchase Order are satisfied. In addition, Buyer shall not enter into any financing or loan arrangement or agreement involving the equipment purchased hereunder, or pertaining to any aspect of Buyer's business, without the prior express written consent of Coda Octopus Engineering and then only as specifically provided for in this Purchase Order. Default in

payment or performance of any of the Buyer's obligations, or default under any agreement evidencing any of its obligations, is a default under this provision. Upon such default, Coda Octopus Engineering may declare all obligations immediately due and payable and shall have the remedies of a secured party under all applicable law.

9. Factory Inspection and Acceptance: Materials or equipment supplied by this Contract shall be new, unused and in conformity with the agreed upon specifications. Acceptance shall be deemed to occur upon satisfactory conclusion of standard factory acceptance tests.

10. Changes: Purchaser may, during the progress of the Work, request Seller to perform changes within the scope of work. In no event will changes be undertaken by Seller, nor additional compensation be paid by Purchaser, unless and until agreement is reached on the technical and/or commercial impacts of said changes and the contract is modified in writing accordingly.

11. U.S. Export License and Transfer Approvals: It is expressly understood that this Contract, and all obligations arising hereunder, are contingent upon and subject to U.S. Government Export Control Laws and regulations, including without limitation, the requirement to obtain all necessary approvals and licenses prior to the export of the items set forth herein. During and after the expiration of this Agreement the items purchased, including any technical data or documentation pertaining thereto, are not to be sold, leased, released, assigned, transferred, conveyed or in any manner disposed of either directly or indirectly without the prior written approval of the United States Department of Commerce, or State Department, as appropriate. Seller shall be excused from performance and not be liable for penalties or damages of any kind for failure to deliver items hereunder resulting from the U.S. Government's denial of approval to export said items to purchaser. Seller shall not be liable for any denial of the U.S. Government of any request by Purchaser to transfer any such items to other parties or countries.



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12. General: (a) This contract shall be governed by the laws of the State of Utah. (b) Any disputes which cannot be settled by management intervention shall be deemed a dispute and be settled conclusively through arbitration proceedings conducted in accordance with the rules of arbitration of the International Chamber of Commerce. The location of the arbitration proceedings will in the County of Salt Lake (Utah) applying the substantive law of the State of Utah. Any decisions rendered by the arbitration panel will be binding on the parties and final on merit with no right of review, administrative, judicial otherwise, and will be enforceable by any court of competent jurisdiction. (c) Restocking standard equipment may be accepted with specific written approval of Seller. Special products shall be subject to all expenditures made and committed for this order with a reasonable allowance for prorated expenses and profit. All authorized returns will be subject to a restocking charge of at least 20%. (d) Any waiver by either party of a breach or default shall not constitute a general waiver of any other breach or default otherwise occurring. (e) The parties agree that if any portion of this Contract shall become illegal and/or unenforceable, the remaining portion shall continue to be binding and enforceable provided that the validity of the remaining portion would not defeat the overall business intent of the parties or give one party any substantial financial benefit to the detriment of the other party. (f) This Contract shall not be assigned by either party for any reason whatsoever without the express, written consent of the other party.

13. Liability: (a) Seller is hereby indemnified against all loss or liability from claims by Purchaser or a third party arising out of or relating to operation or use of equipment whether on account of negligence or otherwise. YOU ARE EXPRESSLY NOTIFIED THAT SELLER LIABILITIES HEREUNDER SHALL NOT INCLUDE LOSSES OF ANTICIPATED PROFITS OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. (b) Seller's liability on any claim of any nature, including negligence, breach of warranty, or default for any loss or damage resulting from, arising out of or connected with this purchase

order, or from the performance or breach thereof, or from the manufacture, sale, delivery, installation, resale, repair or use of any equipment covered by or furnished under this purchase order shall in no case exceed the value of such equipment (or part thereof) which gives rise to the claim, except where such damage is attributable to, or death or injury results from, an act of intentional or gross negligence by the Purchaser's personnel in which event Purchaser will be liable. In no event shall Seller be liable for any special, incidental or consequential damages.

14. Anti-Bribery and Corruption: In entering this Agreement, each Party warrants that it has not done, and in performing its obligations under this Agreement, it shall not do, any act or thing that contravenes US Foreign Corrupt Practices Act or any other applicable anti-bribery or anti-money laundering laws and/or regulations.