

**APS TECHNOLOGY, INC.**  
**TERMS AND CONDITIONS**

The following terms and conditions apply to Products or Services furnished by APS Technology, Inc. and/or its Affiliates. The ordering of Products or Services by a purchaser (a "Customer") shall constitute its agreement to and acceptance of these Terms and Conditions.

**1. Prices, Invoicing and Payment:** All prices are quoted by APS and shall be paid by Customer in US Dollars. Prices include handling, labeling, packing and packaging. Prices do not include: shipping, and insurance charges; tariffs; or any federal, state local, use, excise VAT or other similar taxes, and those charges and taxes shall be added to each invoice. Payment of each invoice for Products or Services is due within thirty (30) days following receipt. Any past due amount shall accrue interest at a rate which the lesser of 1.5% per month or the maximum rate permitted by law. Customer shall reimburse APS for reasonable attorney's fees and any other costs incurred by APS to collect any amounts due.

**2. Limited Warranty:** APS warrants that each Product shall perform substantially in accordance with its published specifications and shall be free from defects in workmanship and materials for a period of ninety (90) days following the shipment date, except that the applicable manufacturer's warranty shall supersede and apply with respect to those components or subassemblies of a Product that APS purchases from third parties (the "Product Warranty Period"). APS also warrants that Services shall be free from defects in workmanship for a period of thirty (30) days following completion (the "Service Warranty Period"). APS, at its option, shall (i) repair, replace or refund the purchase price of any Product that is defective or fails to perform according to its specifications during the Product Warranty Period, or (ii) correct or re-perform a Service that is determined to be defective in workmanship during the Service Warranty Period. **THE FOREGOING LIMITED WARRANTY SHALL NOT APPLY TO NORMAL WEAR OR TEAR OR TO ANY PRODUCT OR SERVICE DEFECT RESULTING FROM (i) TAMPERING, ALTERATION, OR REPAIR OF THE PRODUCT BY ANYONE OTHER THAN APS; (ii) LIGHTNING, FIRE OR OTHER ACTS OF GOD; (iii) STORAGE, INSTALLATION OR USE OF THE PRODUCT IN A MANNER THAT FAILS TO COMPLY WITH THE APPLICABLE SPECIFICATIONS, INCLUDING WITHOUT LIMITATION, SUBJECTION OF THE PRODUCT TO EXCESSIVE TORQUE, BENDING OR OTHER APPLIED LOADS, VIBRATION, JARRING, OR HEAT, OR TO EXCESSIVELY CORROSIVE OR EROSIVE ENVIRONMENTS (iv) FAILURE TO PERFORM ROUTINE MAINTENANCE OR (v) COMPLIANCE BY APS WITH THE CUSTOMER'S SPECIFICATIONS.**

**APS DOES NOT WARRANT THAT CUSTOMER'S USE OF ANY PRODUCT OR SERVICE WILL BE UNINTERRUPTED OR ERROR FREE. APS' WARRANTY OBLIGATIONS ARE EXPRESSLY LIMITED TO THE REPAIR, REPLACEMENT, REFUNDING OF THE PURCHASE PRICE OF A PRODUCT OR THE CORRECTION OF A SERVICE AS DESCRIBED ABOVE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THESE TERMS AND CONDITIONS, APS MAKES NO AND DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO ANY PRODUCTS AND SERVICES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THESE DISCLAIMERS AND LIMITATIONS SHALL APPLY REGARDLESS OF ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

**3. Intellectual Property Rights:** APS owns solely and exclusively all know how, inventions (including patents and patent applications covering such inventions) designs, techniques, drawings, software, firmware, trade secrets, copyrights, trademarks and other intellectual property rights embodied in or relating to the Products or Services. Customer shall not manufacture, copy, or reverse engineer any Products. In the event Customer engages APS to design, develop or manufacture a custom product ("Custom Product"), Customer shall indemnify, defend and hold APS Technology harmless from and against any and all claims, liabilities, fines, costs and expenses (including, without limitation, attorneys' fees and costs of litigation) of any kind or character arising out of the design, development, manufacture, sale or use of that Custom Product.

**4. Limitation of Liability: EXCEPT FOR LIABILITY FOR PERSONAL INJURY OR DAMAGE TO PROPERTY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, WHETHER IN AN ACTION UNDER CONTRACT, NEGLIGENCE, OR ANY OTHER THEORY, FOR ANY AMOUNT IN EXCESS OF THE TOTAL AMOUNT OF COMPENSATION PAID OR PAYABLE BY CUSTOMER TO APS IN CONNECTION WITH THE TRANSACTION UNDER WHICH THE LIABILITY ARISES. IN NO EVENT, HOWEVER, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR FOR LOSS OF REVENUE OR PROFITS, EVEN IF THE POSSIBILITY OF DAMAGES OR LOSS HAD BEEN DISCLOSED OR REASONABLY COULD HAVE BEEN FORESEEN. THESE LIMITATIONS SHALL APPLY REGARDLESS OF ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

**5. Force Majeure:** Neither party shall be liable for a failure to perform its obligations (other than payment obligations) during any period in which that performance is delayed or prevented by any fire, flood, war, embargo, strike, riot, or intervention of any governmental authority, or any other similar circumstances beyond the reasonable control of that party; provided, however, that the party suffering the delay immediately notifies the other party in writing of the reasons for and anticipated duration of the delay.

**6. Compliance with Law:** APS and Customer shall comply with all applicable federal, state, and local laws and regulations. Without limiting the forgoing, Customer shall comply with all applicable laws, regulations and executive orders relating to the exportation of goods and technical data from the United States.

**7. General:** (a) Nothing in these terms and conditions shall be deemed or construed to create for any purpose an employer/employee, joint venture, partnership, or agency relationship between the APS and Customer. (b) These terms and conditions shall be governed by and interpreted in accordance with the laws of the State of Connecticut. (c) These terms and conditions shall prevail over the preprinted terms of any purchase order, work order or other similar document issued by Customer, and those preprinted terms shall be of no force or effect whatsoever. (d) The terms set forth elsewhere in any written APS Proposal into which these terms and conditions are incorporated shall prevail to the extent of any conflict with these terms and conditions.