

## **TERMS AND CONDITIONS**

The following terms and conditions (collectively the "Terms and Conditions") govern the sale of all products by RUN DISTRIBUTION INC. (hereinafter the "Seller") to its customers (hereinafter the "Buyer"). The Terms and Conditions supersede the terms and conditions on any purchase order submitted to Seller on a different or modified form. Any additional or different terms and conditions in any form are hereby deemed to be a material alteration and notice of objection to them and rejection of them is hereby given.

## **ACCEPTANCE**

Buyer's acceptance of these Terms and Conditions shall be indicated by any of the following, whichever first occurs: (a) Buyer's written acknowledgement hereof, (b) Buyer's acceptance of any shipment of any part of the items specified for delivery on the front side hereof (the "Products"), or (c) any other act or expression of acceptance by Buyer. Buyer's acceptance is expressly limited to the Terms and Conditions in their entirety without addition, modification or exception and any term, condition, or proposal hereafter submitted by Buyer (whether oral or in writing), which is inconsistent with or in addition to the Terms and Conditions is objected to and is hereby rejected by Seller. Seller's silence or failure to respond to any such subsequent term, condition or proposal shall not be deemed to be Seller's acceptance or approval thereof.

ANY GENERAL DESCRIPTION OF THE TYPES OF PRODUCTS POSTED ON ANY SELLER WEBSITE OR MOBILE APPLICATION DO NOT CONSTITUTE PART OF THE AGREEMENT BETWEEN SELLER AND BUYER.

## **DELIVERY**

Unless otherwise agreed in writing, delivery shall be made in accordance with Seller's shipping policy in effect on the date of shipment. Title to, and all risk of loss or damage with respect to, the Products shall pass to Buyer upon delivery by Seller to the carrier or Buyer's representative at Seller's warehouse. Delivery is subject to the payment provisions set forth herein and to Seller's receipt from Buyer of all necessary information and documentation from Buyer, including all import certificates, licenses and other documents as may be required from Buyer for export of the Products. Buyer shall promptly notify Seller, no later than 30 days from invoice date, of any claimed shortages or rejection as to any delivery, with the exception of deliveries that reveal external shipping damage, which, in some instances, must be refused immediately upon delivery by the carrier. Such notice shall be in writing and shall be reasonably detailed stating the grounds for any such rejection. Failure to provide any such notice within such time shall be deemed an acceptance in full of any such delivery. Seller shall not be liable for any shipment delays that affect Buyer or any of Buyer's suppliers, including but not limited to delays caused by unavailability or shortages of Products from Seller's suppliers, natural disasters, acts of war, acts or omissions of Buyer, fire, strike, riot, or governmental interference, unavailability or shortage of materials, labour, fuel or power through normal commercial channels at customary and reasonable rates, failure or destruction of plant or equipment arising from any cause whatsoever, or

transportation failures.

## **PRICE AND PAYMENT**

Orders are not binding upon Seller until accepted by Seller. Buyer agrees to pay the total purchase price for the Products plus shipping (to the extent shipping is not prepaid by the Buyer), including shipping charges that are billed to Seller as a result of using Buyer's carrier account number. Terms of payment are within Seller's sole discretion. Buyer shall furnish to Seller all financial information reasonably requested by Seller from time to time for the purpose of establishing or continuing Buyer's credit limit, it being understood that Seller shall have the right to decline to extend credit to Buyer and to require that the applicable purchase prices be paid prior to shipment. Seller shall have the right from time to time, without notice, to change or revoke Buyer's credit limit on the basis of changes in Seller's credit policies or Buyer's financial condition and/or payment record. Seller shall have no obligation to deliver Products or services if Buyer files a voluntary petition under a bankruptcy statute, or makes an assignment for the benefit of creditors, or if an involuntary petition under a bankruptcy statute is filed against Buyer, or if a receiver or trustee is appointed to take possession of the assets of Buyer, or if Buyer engages in the sale of all or substantially all of its assets.

Prices payable by Buyer for the Products are specified on the invoice. Seller does not offer price protection. Buyer shall pay and assume all applicable federal, provincial, municipal and other government taxes (such as sales, use and similar taxes), as well as import or customs duties, license fees and similar charges, however designated, levied on this sale or the Products (or the delivery thereof) or measured by the purchase price hereunder. Seller's prices set forth on the front of the invoice do not include such taxes, fees and charges. Exemption certificates must be presented prior to shipment if they are to be honoured. To the extent any sale is made without the prior receipt of a valid exemption certificate, Seller expressly reserves the right to include on the invoice for such sale, or to separately invoice Buyer for all applicable taxes, fees and charges and Buyer agrees that these amounts shall be immediately due and payable.

Credit cards are only accepted at the time of order or purchase. Payment for all other orders must be made in accordance with the terms in effect at the time the order was placed. Unless otherwise specified, payment terms are COD. Seller at its discretion may require reasonable advance assurances of payment through irrevocable bank letters of credit or otherwise. All unpaid invoices shall accrue interest daily at the rate of 15% per annum on the unpaid balance until paid in full. Buyer's failure to make timely payment may result in such action as revocation of credit, delay or cessation of future deliveries, repossession of unpaid delivered goods or any one or more of these. Notwithstanding any "net" payment provisions specified on the front of the invoice, Seller shall have no continuing obligation to deliver Products on credit, and any credit approval may be withdrawn by Seller at any time and without prior notice. Seller hereby retains (and Buyer grants to Seller) a security interest in the Products to secure payment in full and compliance herewith, and Buyer agrees to execute any additional documents necessary to perfect such security interest, upon Seller's request.

## **PRODUCT RETURNS**

Return of Products purchased hereunder, whether for stock balancing purposes or because such Products are claimed to be defective, shall be governed by Seller's product return policies in effect on the date of return. Seller reserves the right to modify or eliminate such policies at any time. Although Seller's policies may permit Buyer to return Products claimed to be defective under certain circumstances, Seller makes no representations or warranties of any kind with respect to the Products.

Buyer understands that Seller is not the manufacturer of the Products purchased by the Buyer hereunder and the only warranties offered are those of the manufacturer, not Seller or its Affiliates. In purchasing the Products, Buyer is relying on the manufacturer's specifications only and is not relying on any statements, specifications, photographs or other illustrations representing the Products that may be provided by Seller or its Affiliates.

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LIMITATION OF LIABILITY SELLER SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR

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Seller shall have no duty to defend, indemnify, and hold harmless Buyer from and against any or all damages and costs incurred by Buyer arising from the infringement of patents or trademarks or the violation of copyrights by any goods which are not sold by Seller. Seller shall have the option (BUT NOT THE DUTY) at any time to replace or modify any goods sold to buyer to avoid patent or trademark infringement or copyright violation. Notwithstanding any other terms or conditions to the contrary, Seller's liability FOR ANY CLAIMS OF THE INFRINGEMENT OF PATENTS OR TRADEMARKS OR THE VIOLATION OF COPYRIGHTS shall not exceed the purchase price of the infringing hardware or software, less reasonable depreciation computed on a five-year straight line basis.

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#### **RESALE ONLY/EXPORT**

All Products delivered to Buyer hereunder are for resale only. All Products delivered to Buyer hereunder, if sold in Canada, are intended for use in Canada only. Shipment of the Products outside Canada may require a valid export license and the approval of the manufacturers of such Products.

#### **QUEBEC LAW**

These Terms and Conditions (and any agreement to which they are incorporated) shall be interpreted in accordance with and governed by the laws of the Province of Quebec and the laws of Canada applicable therein, district of Montreal.

## **COSTS OF COLLECTION**

Buyer agrees to pay court costs and reasonable legal fees incurred in the collection of any unpaid balances whether or not suit is filed.

Seller reserves the right to refuse to sell Products to any customer at any time for any reason.

Although Seller's policies may permit a buyer to return Products claimed to be defective under certain circumstances, Seller makes no warranties of any kind with respect to any Products. ALL PRODUCTS SOLD BY SELLER ARE SOLD "AS IS" (WITH NO OTHER WARRANTIES OTHER THAN THOSE PROVIDED BY THE MANUFACTURER ITSELF TO THE BUYER) AND ARE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE MANUFACTURER'S END-USER LICENSE AND/OR WARRANTY PACKAGED WITH THE PRODUCT. BUYER IS OBLIGATED TO MAKE THE TERMS OF THE END-USER LICENSE, OR ANY PRODUCT WARRANTY PACKAGED WITH ANY PRODUCT, AVAILABLE TO THE END-USER PRIOR TO THE END-USER'S PURCHASE OF SUCH PRODUCT. SELLER DOES NOT WARRANT THE MERCHANTABILITY OF THE GOODS OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE PRODUCTS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

## **GENERAL**

These Terms and Conditions shall, upon acceptance by Buyer, constitute the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and shall supersede all prior offers, negotiations, understandings and agreements, and it is expressly agreed that no prior or contemporaneous agreement or understanding, whether written or oral, shall contradict, modify, supplement or explain the Terms and Conditions. Notwithstanding the foregoing, if Buyer and Seller have executed an agreement that specifically supersedes and replaces or modifies any or all of the Terms and Conditions, the terms of such Agreement shall control. No additional or different terms of conditions, whether material or immaterial, shall become a part of these Terms and Conditions unless expressly accepted in writing by an authorized officer of Seller. Any waiver by Seller of one or more of these Terms and Conditions or any defaults hereunder shall not constitute a waiver of the remaining Terms and Conditions or any future defaults hereunder. It is the intention of the parties that these Terms and Conditions shall be enforceable to the fullest possible extent, regardless of any partial invalidity or unenforceability, and that no failure or delay by either party in exercising or enforcing any right hereunder shall operate as a waiver thereof or preclude any other exercise or enforcement of rights hereunder. The rights and obligations of Buyer under the Terms and Conditions may not be assigned by Buyer without the prior written consent of Seller (which shall not be unreasonably withheld). All Products purchased from Seller are subject to the terms and conditions set forth in the manufacturer's warranty, if any, provided to Buyer, and the end-user license packaged with each such

Product.

## **DISCLAIMERS**

The Products or services provided by Seller are not authorized for use in the planning, construction, maintenance or operation of any high risk facility or any other application in which malfunction of the Products or services is likely to result in property damage, personal injury or death. Buyer shall indemnify and hold Seller harmless from all loss, damages, expense or liability in connection with such use.

Buyers must properly use security procedures, which are reasonably sufficient to ensure that all electronic transmissions of documents to Seller are authorized and shall be responsible for any such unauthorized transmissions.

Any order properly transmitted in accordance with these Terms and Conditions is considered to be "in writing"; and any order containing a code is deemed (a) to have been "signed" and (b) to constitute an "original" when printed from electronic files or records established and maintained in the normal course of business. Buyer and Seller agree not to contest the validity or enforceability of orders as to whether certain agreements are to be in writing or signed.

Seller shall not be liable for any act of God or other cause (including, without limitation, any mechanical, electronic or communications failure) which prevents any of Seller's Electronic Communications services from transmitting or receiving.