

Fuji America General Terms and Conditions of Sale

These General Terms and Conditions of Sale (the "Terms") shall govern the sale of the products, equipment, accessories, attachments and/or services (collectively, the "Products") from Fuji America Corporation ("FAC") to the purchaser ("Customer"), regardless of any other purchase order or other forms(s) and/or terms and conditions submitted by Customer to FAC. All contrary, additional or inconsistent terms are hereby rejected. These Terms and any other sales document to which these Terms are attached or made part of shall constitute the entire agreement of the parties (the "Agreement") relative to the subject matter hereof.

1. ACCEPTANCE OF ORDER. An order is deemed placed when FAC receives from Customer a purchase order or other similar document, together with the down payment, if required. An order is deemed accepted when FAC sends Customer an order acknowledgment or other similarly-intended document. The Terms herein shall apply throughout the sales process, including, but not limited to, the quotation requests, quotations, technical specification forms, purchase orders, order acknowledgments, invoices and payments. Customer may not cancel or modify an accepted order, in whole or in part, without the express written permission of FAC.

2. PRICES AND TAXES. The prices shown are either FOB customers facility, FOB Fuji America Corporation's facility in Vernon Hills, Illinois, or FOB Fuji Corporation's facility in Japan based on continuous manufacture for the rates of delivery specified. Customer will pay all additional costs incurred by FAC due to interruptions, changes in quantity, engineering changes, or modifications caused or requested by Customer.

All prices are quoted, all orders are accepted, and all billings are rendered exclusive of all federal, state, and local excise, sales, use, and similar taxes. Customer shall pay the amount of any present or future excise, sales, use, manufacturer's, state or local privilege, or similar tax applicable to the sale of the Product. Such taxes, when applicable, will appear as separate additional items on the invoice/order acknowledgement unless FAC receives a proper tax exemption certificate from Customer prior to shipment.

3. PAYMENT. The terms of payment shall be net thirty (30) days from date of invoice. Each invoice will be dated the date of delivery of Product to a carrier in accordance herewith. Customer shall pay FAC promptly on demand interest on overdue accounts at the rate of 1% per month. Customer agrees that such charge is reasonable in the light of the anticipated or actual harm caused by reason of Customer's delinquency and the inconvenience or non-feasibility of FAC otherwise obtaining a remedy. Customer further agrees that such a charge is not an agreement, express or implied, to give further time for payment.

If shipment or manufacture is delayed by Customer, payment shall become due on the date when FAC is prepared to make shipment or the date on which manufacture is

delayed and such payment shall be made based on the contract in force and the percentage of completion. Products held by FAC for Customer by reason of Customer's delay shall be stored at the risk and expense of Customer.

If, in the judgment of FAC, the financial condition of Customer at any time does not justify continuance of production or shipment upon the terms of payment specified, FAC may require full or partial payment in advance, and, in the event of bankruptcy or insolvency of Customer, or in the event any proceeding is brought by or against Customer, or in event any proceeding is brought by or against Customer under any bankruptcy or insolvency laws, FAC shall be entitled to cancel any order of the Customer then outstanding and shall receive reimbursement from the Customer for its cost to date of cancellation.

4. DELIVERY AND RISK OF LOSS. All products shall be deemed delivered to Customer when placed in the hands of a common carrier or the United States Postal Service at or near an FAC facility. Customer assumes all risk of loss from the time the Products are so delivered. FAC will exercise its discretion in selecting the method of shipment unless otherwise specified by Customer. Shipping dates, if any, are approximate, and are based on the prompt receipt by FAC of all necessary information from Customer.

5. WARRANTY. FAC'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF FAC AND THE MANUFACTURER OF THE PRODUCTS (COLLECTIVELY, "Manufacturing and Selling Parties"), WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL FAC OR THE MANUFACTURING AND SELLING PARTIES BE LIABLE (AND CUSTOMER SHALL NOT ASSERT ANY CLAIM) FOR SPECIAL, INCIDENTAL, COMPENSATORY OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS. IN ADDITION, ANY WARRANTY SHALL NOT APPLY TO ANY PRODUCTS OR PORTIONS THEREOF WHICH HAVE BEEN SUBJECTED TO ABUSE, MISUSE, IMPROPER INSTALLATION, MAINTENANCE OR OPERATION, ELECTRICAL FAILURE OR ABNORMAL CONDITIONS; AND TO PRODUCTS WHICH HAVE BEEN TAMPERED WITH, ALTERED, MODIFIED, REPAIRED OR REWORKED BY ANYONE NOT APPROVED BY FAC. CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES UNDER THIS WARRANTY SHALL BE LIMITED, AT FAC'S EXCLUSIVE DISCRETION, TO: (1) REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; (2) REPAIR OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; OR (3) RETURN OF THE PURCHASE PRICE FOR ANY DEFECTIVE PRODUCT OR PART THEREOF IN EXCHANGE FOR BUYER'S RETURN OF THE PRODUCTS TO FAC, FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES OF ANY NATURE.

FAC warrants the Product against defects in materials and workmanship for a period of two years parts and 1 year Labor, or 3000.00 Hours, whichever comes first, from the date of delivery. FAC shall not be liable under this warranty unless (i) FAC is promptly

notified in writing upon discovery of defects by Customer; (ii) The defective unit is returned to FAC, transportation charges paid by Customer; (iii) The defective unit is received by FAC for adjustment no later than one year following the date on which such unit was delivered by FAC; (iv) FAC's examination of such units shall disclose, to its satisfaction, that such defects have not been caused by misuse, neglect, improper installation, repair, storage, alteration, or accident. FAC's warranties shall not be enlarged, diminished, or affected by, and no obligation or liability shall arise or grow out of, FAC's rendering of technical advice or service in connection with Customer's order or the Products furnished hereunder. No person, firm, or corporation is authorized to assume for FAC any expanded liability in connection with this Agreement, or the sale of Products hereunder.

6. INTELLECTUAL PROPERTY RIGHTS. Customer shall indemnify, defend and hold FAC harmless against any expenses, damages, cost or losses resulting from any suit or proceeding brought for infringement of any intellectual property rights (*IPR*), including, but not limited to, patents, trademarks, copyrights, or trade names, or for unfair competition arising from FAC's compliance with Customer's designs, specifications or instructions.

7. CONTINGENCIES. FAC shall not be liable for any failure to perform or delay in performance, caused by circumstances beyond its reasonable control which make such performance commercially impracticable, including, but not limited to, fire, storm, flood, earthquake, explosion, accident, acts of a public enemy, war, rebellion, insurrection, sabotage, epidemic, pandemic, quarantine restrictions, terrorist acts, labor disputes, labor shortages, embargoes, or failure or delays in transportation, inability to secure raw materials or machinery, acts of God, acts of national, state, provincial or local government authority, whether or not valid, or judicial action, whether or not valid. In the event of FAC's inability, due to circumstances beyond its reasonable control, to supply the total demands for the Product, FAC may allocate available supply among any and all of its customers as FAC deems fair and practical without liability to Customer for any failure of performance which may result therefrom.

8. NONWAIVER OF DEFAULT. No act, of failure to act, of FAC subsequent to Customer's default under the terms of this order shall be construed, interpreted, implied, or assumed to be waiver of such default. FAC may, at its sole option, elect to continue shipments, or stop shipments, treat the order as terminated in whole or in part, or accelerate the delivery of the balance of shipments under the order. No claim or right arising out of a breach of this Agreement by Customer can be discharged in whole or in part unless by specific writing signed by FAC.

9. ASSIGNMENTS. Any contract made hereunder shall be binding upon and accrue to the benefit of the successors and assigns of Customer and FAC and shall not be assigned by Customer, voluntarily or involuntarily, without the written consent of FAC.

10. REMEDIES. In the event of breach of this Agreement by Customer, FAC shall have all rights and remedies provided by law and the Uniform Commercial Code, and shall be

entitled to the recovery of its costs and reasonable attorneys' fees incurred as a result of Customer's breach of this Agreement. In addition, if customer repudiates this Agreement or if FAC terminates it due to default by Customer, Customer shall be liable to FAC for the purchase price of all Products shipped or unshipped, then completed, at the then-current price for such Products.

11. GENERAL. This Agreement, and any sale of Products to Customer, shall be deemed to have been made in and governed by the substantive laws of the State of Illinois, without regard to choice-of-law provisions. The International Convention for the Sale of Goods shall not be used in the interpretation or application of this Agreement. Any claims relating to this Agreement, the sale or use of the Products, and/or the relationship between FAC and Customer shall be asserted only in the state or federal Courts located in Lake County, Illinois or Cook County, Illinois. Purchaser hereby consents to the jurisdiction and venue of said courts. This constitutes the entire agreement between Customer and FAC with respect to the purchase and sale of the Product, and no representation or statement not contained herein shall be binding upon FAC, as warranty or otherwise. No addition to, or modification of, any of the foregoing terms and conditions shall be binding upon FAC unless made in writing and signed by a duly authorized representative of FAC.