

BACHARACH, INC. - STANDARD TERMS AND CONDITIONS OF SALE

1. GENERAL. These Standard Terms and Conditions of Sale and the nonconflicting provisions in Bacharach Inc.'s quotation, if any, (the "Agreement") shall govern in all respects all sales and use of any product, ("Product" or "Products") and services ("Services") from Bacharach, Inc. ("Seller") by the purchaser (the "Buyer"), including without limitation future replacement Products purchased by Buyer. If this writing differs in any way from the terms and conditions of Buyer's order or if this writing is construed as an acceptance or as a confirmation acting as an acceptance, then Seller's acceptance is EXPRESSLY MADE CONDITIONAL ON BUYER'S ASSENT TO ANY TERMS AND CONDITIONS CONTAINED HEREIN THAT ARE DIFFERENT FROM OR ADDITIONAL TO THOSE CONTAINED IN BUYER'S WRITING. Further, this writing shall be deemed notice of objection to such terms and conditions of Buyer. If this writing is construed as the offer, acceptance hereof is EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN. No purchase order or any other purchasing instruments of Buyer shall be effective to contradict, modify, delete from or add to the terms of this Agreement unless expressly agreed to and accepted by Seller in writing. This Agreement constitutes the complete and exclusive statement of the agreement between the parties and supersedes all proposals, oral, written, or electronic and all other communications between the parties relating to the subject matter of this Agreement. Seller's quotations are offers that may only be accepted in full. Buyer shall be deemed to accept this Agreement upon the occurrence of any of the following: (i) Buyer's acceptance of Seller's quotation to which this Agreement is attached; (ii) Buyer's delivery of an order for Products to Seller (via purchase order, shipping schedule or any other means of communication); and/or (iii) Buyer's acceptance of delivery of, or payment for, the Products, irrespective of any terms added or deleted by Buyer. All questions arising hereunder shall be interpreted and resolved in accordance with the Commercial Code of the Commonwealth of Pennsylvania without regard to its conflict of law provisions and excluding the United Nations Convention on the International Sale of Goods. All actions arising hereunder shall be instituted in Allegheny County, PA. Buyer hereby consents to the jurisdiction of the state and federal courts sitting in Allegheny County and agrees to appear in action upon written notice thereof. Buyer shall not assign this Agreement to any third party by operation of law, or in bankruptcy, or otherwise without prior written consent of Seller. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns and transferees. Seller's failure to insist on strict performance of this Agreement or to enforce a default upon the occurrence of any single, repeated, or continuing violation of any particular term or condition hereof, shall not be considered a waiver of Seller's right to insist on strict performance of this Agreement or to enforce a default with respect to the violation of any other term or condition or, at any later time or upon any subsequent occurrence, with respect to that particular term or condition. If any of the provisions of this Agreement are held to be invalid, illegal, or unenforceable, then such provision shall be ineffective only to the extent of such invalidity and the unaffected provisions of this Agreement shall be unimpaired, and remain in full force and effect. Each Party's obligations which by their nature are intended to survive beyond the termination, cancellation or expiration of this Agreement, shall survive.

2. RE SALE OF PRODUCTS. Unless Buyer is a party to a distribution agreement with Seller which governs Buyer's resale of Products, Buyer may only resell Products purchased hereunder upon terms and conditions no less favorable than Seller's current Standard Terms and Conditions of Sale (as posted on www.mybacharach.com), including without limitation warranty and limitation of liability provisions. Buyer agrees to indemnify, hold harmless, and defend Seller from and against all claims and lawsuits, including attorney fees, to the extent such claims and lawsuits arise from Buyer's failure to include such terms and conditions to a remote buyer.

3. FEES AND PAYMENT. Buyer agrees to pay the fees for the Product (the "Product Fee"). Fees for services shall be itemized separately on Seller's quote and invoice (the "Service Fee", together with the Product Fee, the "Fees"). All orders are subject to credit approval at the time of entry. Unless otherwise agreed to in writing by the parties, Fees, are net thirty (30) days, minimum order of \$50, and shall be those prices in effect at the time Seller accepts Buyer's order, except as provided below. As Seller's prices are based upon costs and conditions (including exchange rates) existing at the time of acceptance, prices are subject to increase as those conditions change, e.g. increase in price of materials and labor and exchange rate fluctuations. Fees are exclusive of all shipping and handling charges, including hazardous material charges as appropriate duties, tariffs, value

added taxes, sales taxes, use taxes, or assessments levied by any federal, state, municipal or other government authority that may be owed by Buyer as a result of this Agreement, the purchase of the Product and Services, or other charges which may be imposed upon the sale, resale, or use of the Products. Such charges paid by Seller shall be for Buyer's account. Any claim for exemption from such charges must be plainly designated on the face of the order and accompanied by all required exemption certificates. Unless specifically stipulated on an invoice or otherwise agreed to in writing by the parties, Fees shall be in U.S. Dollars and are due upon Buyer's receipt of the invoice, without right to deductions or set-off. Seller may require payment to be made C.O.D. or via irrevocable letter of credit in favor of, and acceptable to, Seller, established at Buyer's expense. If payment is not made when due, Seller may suspend all future delivery or other performance with respect to Buyer without liability or penalty and, in addition to all other sums payable hereunder, Buyer shall pay to Seller (1) the reasonable costs and expenses incurred by Seller in connection with all actions taken to enforce collection or to preserve and protect Seller's rights hereunder, whether by legal proceedings or otherwise, including without limitation reasonable attorneys' fees, court costs and other expenses and (2) interest on all amounts unpaid after 30 days charged at the lesser of (a) the rate of 2% per month or (b) the highest rate permitted by law.

4. SHIPMENT; DELIVERY; FORCE MAJURE. The method of shipment and carrier shall be selected by Seller. Unless otherwise agreed to in writing by the parties, shipment and delivery of the Products shall be F.C.A. Seller's facility (INCOTERMS 2000) whereupon title (excluding title to any embedded software) and risk of loss is transferred to Buyer. Buyer agrees to inspect all products against shipping papers and for damages or shortage upon receipt of goods at destination. Every claim for loss, damage in transit, or other cause visible upon inspection shall be made with carrier. Claims for shortage must be made within thirty (30) days of receipt. All shipment, insurance or similar charges shall be borne by Buyer. At Seller's option, Products may be shipped in advance of the requested shipment date or in installments. All delivery information (including time for shipment) is approximate. Seller's sole responsibility is to use reasonable commercial efforts to meet specified shipment dates. Buyer expressly absolves Seller from any liability for any loss or damage resulting from a failure to deliver or delays in delivery caused by any conditions related to, or caused by, failure to process or inaccurate processing of time-sensitive information and/or mechanisms, a labor dispute (e.g. strike, slowdown or lockout), fire, flood, governmental act or regulation, riot, inability to obtain supplies or shipping space, plant breakdown, power failure, delay or interruption of carriers, accidents, acts of God or other causes beyond Seller's control.

5. CANCELLATION; FAILURE TO TAKE DELIVERY; RETURNS. This Agreement, in whole or in part, cannot be canceled or postponed by Buyer except with Seller's prior written consent and upon terms that will indemnify Seller against loss. If Buyer cancels all or part of an order for Products, Buyer shall pay Seller the greater of an amount equal to (i) 50% of the price for such cancelled Products, or (ii) the actual and consequential damages incurred by SELLER, including without limitation Seller's anticipated profit and expenses already incurred by Seller. If Buyer postpones delivery, Buyer shall pay Seller the sum of (i) monthly charges equal to 1.5% of the total price for the Products subject to such postponement, and (ii) reasonable postponement charges, e.g. Seller's idle time, warehousing expense, etc. In the event of approval of a return request, (i) any applicable packing, shipping, and delivery costs will be at Buyer's expense and (ii) all returns must be shipped freight prepaid at Buyer's expense. No returns are to be made to Seller without first obtaining a return goods authorization number ("RGA"). The RGA number must be prominently displayed on the return packaging. Absolutely no returns will be accepted or credited without this prior approval. Returns are subject to a 15% restocking charge. Credits will be given only for items that are determined to be eligible for resale by Seller, excluding warranty returns.

6. WARRANTY; WARRANTY DISCLAIMERS

Product Warranty. Unless otherwise mutually agreed by Buyer and Seller in writing, Seller warrants to Buyer that it holds and will pass marketable title to the Products (excluding any embedded software, if any) sold hereunder and that all new Products shall be free from defective factory workmanship and installed material for the Warranty Period applicable for the Product as set forth in the Product manual commencing upon delivery to the carrier for the first sale (the "Warranty"). If Buyer is not the end user of the Products sold hereunder, Buyer agrees to provide to any immediate buyer ("Remote Purchaser") the Limited Warranty and Disclaimer to the End-Use

(Remote) Purchasers issued by Seller. In addition to the repair or replacement of a defective Product part pursuant to this limited Warranty specified herein, if onsite repair or installation by Seller or its designee is required, as solely determined by Seller, then Warranty related services and reasonable travel and living expenses shall be provided at no additional charge to Buyer.

Services Warranty. For Services provided by Seller, Seller warrants that the Services will be of workmanlike quality. If any failure to meet the Service warranty, for the specific Service previously performed, appears within ninety (90) days after the Services are completed, Seller shall again perform, if able to be cured, those Services directly affected by such failure, at its sole expense. BUYER'S SOLE REMEDY FOR DEFECTIVE SERVICES SHALL BE LIMITED TO THE COST OF REPERFORMING SUCH SERVICES. IN ORDER TO RECEIVE THIS REMEDY, BUYER MUST NOTIFY SELLER, IN WRITING, OF ANY CLAIMED DEFICIENCY WITHIN THIRTY (30) DAYS OF COMPLETION OF THE SERVICES. THE REMEDY FOR DEFECTIVE SERVICES IS EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES OTHERWISE AVAILABLE TO BUYER AT LAW OR IN EQUITY.

Disclaimers. THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION ARE IN LIEU OF, AND SELLER AND ITS RESPECTIVE AFFILIATES AND SUPPLIERS DISCLAIM ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE PRODUCT OR ANY PART THEREOF, INCLUDING WITHOUT LIMITATION ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT SELLER HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING OR PERFORMANCE.

7. WARRANTY EXCLUSIONS; REMEDY

Warranty Exclusions and Conditions. Seller's Warranty shall not apply to Products, including without limitation components, parts, and materials that (a) are not manufactured by Seller which are covered by third party warranties, if any, of their respective manufacturers, including without limitation batteries and other wear items; (b) are expendable or consumable parts, including without limitation batteries, fuses, filters and bulbs; (c) have been subjected to: (i) operation in excess of recommended capacity, (ii) inadequate electrical power, air-conditioning, or humidity-control, (iii) accident or disaster, including without limitation, fire, flood, water, wind, and lightning, (iv) neglect, including without limitation, power transients, (v) abuse or misuse, (vi) failure of the Buyer to follow Seller's most recent published operating instructions, (vii) unauthorized modification, installation or repair by persons other than authorized representatives of Seller, or (viii) use for purposes other than as specified in the documentation or most recent published operating instructions; or (d) are not properly stored, installed, maintained, or operated under normal conditions and in accordance with Seller's recommendations. Seller's Warranty herein shall be void and of no effect if the defect has arisen from damages occurring to the Product subsequent to delivery or is related to the use of unauthorized hardware, software, or other equipment. Buyer acknowledges that if Buyer replaces the sensors supplied by Seller with sensors produced by another manufacture, then all of the Seller's Warranties to Buyer and to Remote Purchaser will be voided and Buyer will assume all liability for any damage, injury or loss suffered by Buyer and/or Remote Purchaser arising out of this unauthorized modification. Seller's Warranty does not include: routine maintenance, including without limitation adjustments, cleaning, calibrations, tightening loose nuts and bolts; performing services connected with relocation of the Product or adding or removing interfaces, accessories, attachments or other devices; repair of damage due to other than normal wear; electrical work external to the Product; any maintenance of interfaces, accessories, attachments, or other devices not furnished by Seller; and any issues resulting from an unsupported service.

Remedy. Buyer's sole and exclusive remedy, and Seller's only obligation for breach of Warranty for Products hereunder, shall be, at Seller's option in its sole discretion, to either (a) repair or replace the defective Product which fails within the Warranty Period at Seller's expense using new or refurbished parts, or (b) return such defective Product which fails within the Warranty Period to Seller and refund to Buyer an equitable portion of the Fee for the defective product. Buyer acknowledges and agrees that Seller's right to refund Buyer's Fee shall not be diminished or restricted in any way or for any reason. The provision of the above remedy shall be conditioned upon notification and substantiation as may be required by Seller that such Product

has been stored, installed, maintained, and operated in accordance with Seller's recommendations. Unless otherwise directed by Seller, all such defective Products shall be returned to Seller's warehouse, or to such other location, as Seller shall select, all at Seller's expense, provided Buyer complies with all Seller directions for packaging and shipping. The purpose of this stated remedy is to correct any defects or to refund the Fees paid. Buyer acknowledges that such exclusive remedy is an essential term in the bargain represented by this Agreement and that such remedy shall, in view of the consideration paid to Seller, operate as a full satisfaction to Buyer for any and all claims related thereto. In further view of the foregoing, Buyer acknowledges that in the event a court of competent jurisdiction or an arbitration panel rules this exclusive remedy does not give the Buyer the benefit of its bargain or that such exclusive remedy fails for any reason, then any such ruling with regard to such exclusive remedy or any such failure of such exclusive remedy shall not affect or modify in any way any limitation or exclusion of warranties, and all such limitations and exclusions shall continue in full force and effect. All warranty claims for Products or Software against Seller must be brought within the applicable Warranty Period. Items repaired or replaced under warranty are warranted only for the remainder of the original warranty period. Seller's rights and remedies under this Agreement shall be cumulative and in addition to any other rights or remedies provided by law or equity. Buyer acknowledge that if Buyer violates this Agreement, damages to Seller would be difficult to determine and therefore, Seller may seek equitable relief, including but not limited to, injunctive relief, which is in addition to any other remedies available at law or in equity.

8. EXPORT COMPLIANCE. Buyer acknowledges that the Products are products of the United States of America and that the export, use, transmission, resale, or other transfer of the Products are governed by the laws and regulations of the United States of America. Buyer agrees that it shall not take, export, resale, or transmit any Product to any other country or in violation of such laws and regulations.

9. LIMITATION OF LIABILITY; TIME FOR CLAIMS; INDEMNIFICATION. Buyer agrees that Seller shall not be liable for INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL OR OTHER SIMILAR DAMAGES including but not limited to loss of profit or revenues, damage for loss of use of the Products, damage to property, claims of third parties, including personal injury or death on account of use of the Products or failure of Seller to adequately warn against or instruct on, the dangers of the Products or the safe and proper use of the Products, whether or not Seller has been advised of the potential for such damages. Seller's total liability hereunder from any cause whatsoever (except liability from personal injury caused by Seller's negligence), whether arising under contract, warranty, tort (including negligence), strict liability, products liability or any other theory of liability, will be limited to the lesser of Buyer's actual damages or the price paid to Seller for the Products that are the subject of Buyer's claim. All claims against Seller must be brought within one year after the cause of action arises, and Buyer expressly waives any longer statute of limitations. Buyer shall defend, indemnify, and hold Seller and its officers, directors, agents, representatives, employees, suppliers, and affiliates harmless from any and all sums, claims, costs, duties, suits, actions, losses, damages, legal fees, obligations, liabilities, and liens arising out of (i) Buyer's purchase, use, possession, ownership, operation, condition, resale, transfer, export, transportation or disposal of the Product, (ii) Buyer's violation or alleged violation of any foreign, federal, state, county or local laws or regulation, including without limitation, the laws and regulations governing product safety and labor practices, (iii) Buyer's negligent acts or omissions to act which cause injury, damage or loss to customers of Seller's Products, and (iv) Buyer's breach of this Agreement

10. SECURITY INTEREST. To secure Buyer's obligation to pay for the Products, Buyer hereby authorizes Seller at any time, and from time to time, to execute and/or file, in accordance with the laws of any jurisdiction, with or without the signature of Buyer, all Uniform Commercial Code or other applicable financing or continuation statements or other documents which Seller may deem necessary or desirable to perfect its security interest in the Products. Buyer authorizes Seller to execute any such documentation on behalf of Buyer as Buyer's attorney-in-fact, which Seller may execute as attorney-in-fact for Buyer.