

# Skandia, Inc. Terms and Conditions of Sale

## 1 GENERAL

For purposes of these Terms and Conditions of Sale, the term "Agreement" shall mean any agreement arising as a result of Buyer's submission of a Purchase Order for Seller's products (the "Products"), and Seller's acceptance of said order. Any such Agreement or Purchase Order shall be deemed to be incorporated herein and governed by these Terms and Conditions of Sale. Seller's or Buyer's failure to object to any provision contained in any communication from Seller or Buyer shall not be construed as a waiver or modification of these Terms and Conditions of Sale or as an acceptance of any such provision. Acceptance by Buyer of this Sales Order is expressly conditioned on Buyer's assent to the Terms and Conditions of Sale contained herein. Retention by Buyer of any Products delivered by Seller, or payment by Buyer of any invoice rendered hereunder shall be conclusively deemed acceptance of these Terms and Conditions of Sale.

## 2 ACCEPTANCE

All purchases of Products are subject to issuance of a Purchase Order by Buyer ("Order") and the acceptance of the same by Seller. Orders are accepted subject to when available at the price quoted at the date of acceptance of the Order. Orders will be processed with every effort to meet the required shipping date, but Seller is not obligated to make delivery at any specified date nor liable for damage due to delay in filing the Order. Specified shipping dates are our best estimates but are not guarantees, and Buyer is at liberty to cancel for unreasonable delays, by written notice to Seller, unless the Order is of special processing and stated as non-cancelable.

## 3 CANCELLATION

Orders shall not be subject to the cancellation or modification either in whole or in part without Seller's written consent and then only with terms that will reimburse Seller for all applicable costs incurred by virtue of the sale, including costs of purchased materials, engineering costs and a reasonable allowance for profit in accordance with Seller's cancellation policy in effect on the date of cancellation. In any circumstances, Seller's written consent must be given in advance of Buyer's return of Products for credit.

## 4 TERMS OF PAYMENT

Payment terms are, as stated on invoice, from the date of invoice date subject to Seller's approval of Buyer's credit and the terms and conditions contained herein. If Seller grants credit to Buyer and Buyer defaults in making any payments to Seller under this Agreement, or under any other agreement between the parties, Seller may charge interest at the rate of the lower of eighteen percent (18%) per annum or the maximum amount permitted by law on unpaid accounts after thirty (30) days from the date of invoice. In any action to collect an unpaid account, Buyer will pay all of Seller's costs, including reasonable attorneys' fee. Seller may also defer further shipments under this Agreement and all other agreements between the parties until all payments in default under any agreement between the parties are paid in full and Seller may, at its sole and absolute discretion, cancel the unshipped balance of any Products still required to be shipped under this Agreement or any other agreement between the parties. In addition to the foregoing, if Buyer fails to make any payment to Seller under this Agreement or any other agreement between Buyer and Seller in a timely manner, or if Seller determines that Buyer presents an unreasonable credit risk to Seller, Seller may amend the credit terms granted to Buyer (including, without limitation, requiring payment in full upon delivery) for all future Orders upon written notice to Buyer.

## 5 UNFORSEEN CONTINGENCIES

Seller shall not be responsible for any loss, delay or non-fulfillment under this Agreement due to war, fire, flood, strike, labor troubles, accident, riot, act of Government authority, act of God, or other contingencies beyond the control of the Parties interfering with production, supply, or source of raw materials affecting Orders.

## 6 INTELLECTUAL PROPERTY

Any and all intellectual property rights regarding the Products and their design, modification, and/or improvements are the sole property of Seller and no license or other conveyance is made to Buyer of any Seller intellectual property.

## 7 ERRORS AND OMISSIONS

Seller and Buyer may correct clerical errors and omissions in any documentation of their own documents. No change shall be made to any document without the prior written consent of the party who generated the document.

## 8 CHANGES

Seller shall confirm changes requested by Buyer and the effect of those changes on delivery schedule and/or additional cost. Upon written acceptance of changes requested by Buyer, and written acknowledgment of changes to delivery schedule and/or cost, Seller shall proceed.

## 9 REJECTIONS AND RETURNS, CLAIMS

Claims for errors, deficiencies or imperfections in any Order shipped to Buyer hereunder shall not be considered unless made within fifteen (15) days after receipt of the applicable Product by Buyer and failure to do so shall be deemed a waiver by the Buyer with respect thereto. In the event Buyer discovers non-conforming Products, which Buyer properly used for the purpose for which sold, Seller shall, at Seller's sole and exclusive discretion, either repair, replace or credit Buyer for the price of such non-conforming Product upon receipt of same from Buyer; provided, however, Seller shall not be liable for any claims for labor or consequential damages and Products may not be returned except by permission of Seller. These remedies are the exclusive remedies of Buyer. Products will not be accepted for return or credit unless so authorized by Seller. Except for non-conforming Products, any Products returned for credit will be subject to a 15% handling charge covering necessary re-inspection and restocking. Claims for shortage must be made in writing within ten (10) days after receipt of the Order subject to this Agreement. Seller accepts no responsibility for breakage, damage or losses occurring after delivery by Seller to carrier, to which all such claims must be referred directly.

## 10 SHIPPING

All shipping charges for Buyer's order shall be the responsibility of Buyer. Unless instructed on shipping method, placement of values and carrier, Products will be shipped EXW (INCOTERMS 2010) Seller's facility by method and carrier of Seller's choice. Transfer of title and risk of loss shall pass to Buyer upon delivery of Products to the carrier at Seller's facility. No extra charge shall be made for packaging and packing required for domestic shipment. Special packaging or special handling expense shall be added to the invoice unless such charges are included in the price quoted.

## 11 TAXES

The purchase price set forth above does not include any taxes, which are the sole and exclusive responsibility of, and which shall be paid by, Buyer. The purchase price set forth above shall be subject to increase without notice by the amount of any sales, use or excise tax levied or charged either by the Federal, State, County, City or other Government agency.

## 12 LIMITED WARRANTY; DISCLAIMER OF WARRANTIES

a) The workmanship, material, and performance of the Products are warranted to be commensurate with the levels established in the applicable documents or specifications referenced on the Purchase Order and issued by public or private bodies with duly constituted authority and in the absence of specific reference to such documents or specifications to be free of material defects in workmanship and materials. If reported defects in material or workmanship are substantiated by Seller, such parts and materials as are affected will be replaced or repaired by Seller at its discretion. This warranty is limited to defects which arise within thirty (30) days of the date of delivery.

b) In no event shall Seller be liable for:

- i) Non-conformity of products due to Buyer's or Buyer's representative's negligence, accident, abuse, improper care or storage, abnormal temperature or moisture conditions;
- ii) Damage to products which have been tampered with or altered by Buyer or Buyer's representative in any way other than by Seller or with Seller's instructions;
- iii) Any specifications provided to Seller by Buyer; or
- iv) Expenses incurred by Buyer in attempting to correct any defects in or non-conformity of Products unless upon Seller's instructions or approval.

c) Seller's liability is expressly limited to the repair or replacement by Seller at Seller's option and cannot be extended to damages, expense, or loss arising from the use of, or inability to use, Seller's Products.

THE WARRANTIES, OBLIGATIONS AND LIABILITIES SET FORTH IN THE AGREEMENT (INCLUDING THESE TERMS AND CONDITIONS OF SALE), AND ALL RIGHTS, CLAIMS AND REMEDIES OF BUYER SET FORTH HEREIN, ARE EXCLUSIVE AND IN SUBSTITUTION FOR, ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY NONCONFORMANCE OR DEFECT IN THE PRODUCTS OR SERVICES PROVIDED UNDER ANY PURCHASE ORDER, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY ARISING FROM THE NEGLIGENCE OF SELLER OR ANY MANUFACTURER OF AIRCRAFT INCORPORATING THE PRODUCTS; AND ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR LOSS OR DAMAGE TO ANY AIRCRAFT.

## 13 LIMITATION OF LIABILITY, DAMAGES

SELLER'S AGGREGATE LIABILITIES TO BUYER ARISING OUT OF OR RELATING TO ANY PRODUCTS PURCHASED HEREUNDER SHALL NOT EXCEED THE PURCHASE PRICE ACTUALLY RECEIVED BY SELLER FOR THE PRODUCTS AT ISSUE. SELLER SHALL NOT BE LIABLE FOR INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, INDIRECT OR REMOTE DAMAGES, INCLUDING LOSS OF PROFITS OR LOSS OF USE, OR FOR EXEMPLARY OR OTHER SPECIAL DAMAGES, HOWEVER STYLED, WHETHER ARISING UNDER THIS AGREEMENT OR OTHERWISE. BUYER HEREBY AGREES ITS EXCLUSIVE REMEDIES ARE SET FORTH IN THIS AGREEMENT.

## 14 GOVERNMENTAL REGULATIONS

Shipment and delivery are subject to any United States or foreign legal requirements, which may prevent, delay or interfere with fulfillment of an Order. Buyer and Seller shall comply with all applicable United States and foreign laws and regulations governing the import and/or export or re-export of all Product(s), including without limitation the U.S. Export Administration Regulations, the International Traffic in Arms Regulations and any regulations administered by the Department of the Treasury's Office of Foreign Assets. Without limiting the generality of the foregoing, Buyer will not export or re-export, directly or indirectly any of the Product(s) to any country restricted by the United States, unless with the prior consent of Seller or the Department of the Treasury's Office of Foreign Affairs.

## 15 INDEMNITY

Buyer hereby indemnifies and holds Seller harmless in the event of any claim, demand, suit, cause of action, proceeding, award, judgment or liability against Seller, including, without limitation, attorneys' fees, based upon, arising out of or in any way related to: any negligent act or omission by Buyer or any of its agents, contractors, servants or employees, including without limitation, (1) claims that the Product(s) failed to meet any specification provided by the Buyer and, (2) claims arising out of Buyer's non-compliance with any applicable governmental law or regulation with respect to the export, re-export or importation of the Product(s). For purposes of this Agreement, "claims" shall include, but not be limited to litigation or arbitration.

## 16 GOVERNING LAW

These Terms and Conditions of Sale shall be governed by and construed in accordance with the substantive law of the State of Illinois, without reference to its conflicts of law rules and specifically excluding the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. Venue for any dispute hereunder shall lie in the state and federal courts of Rockford, Illinois.