

**GENERAL INFORMATION:** All orders placed for products or services of Nova Engineering, Inc. (Seller) shall be subject to these Standard Terms and Conditions of Sale, whether or not specifically referred to, and no other terms or conditions, or any modifications to these Standard Terms and Conditions of Sale shall be recognized or accepted by Nova unless specifically agreed to in writing by an authorized representative of Nova Engineering, Inc. Lack of objection by Nova Engineering, Inc. to any additional, modifying, or deleting provision contained in any communication from Buyer shall not be construed as either a waiver of, or deviation from these Standard Terms and Conditions of Sale.

1. **Orders and Prices:** All price and delivery quotations made by Nova are specifically premised upon these Terms and Conditions of Sale. All orders must be in writing, signed by a representative of Buyer, and contain clear item nomenclature, prices, and delivery schedules. No order shall be binding upon Nova until received at its office at 5 Circle Freeway Drive, Cincinnati, Ohio, and accepted by Nova in writing. Prices and specifications are subject to change without notice, and price quotations, unless otherwise stated, shall automatically expire thirty (30) calendar days from the date of issuance. All prices listed in Nova's written and electronic promotional publications are for informational purposes only and shall not be construed as an offer to sell, and all such prices are subject to confirmation by formal quotation by Nova. Prices in promotional publications do not include shipping charges, insurance costs, export duties, license fees, or other taxes or fees of any nature whatsoever.

2. **Taxes, Fees, and Duties:** Any applicable taxes, fees, and duties, (except for taxes based upon net income) shall be paid by the Buyer, either directly or by reimbursement to Nova Engineering, Inc. Any claim for exemption by Buyer shall, if applicable, be effective only after receipt of proper exemption forms by Nova, but in no event after product delivery.

3. **Inspection and Acceptance:** Final tests for all products will be conducted at Nova's plant in accordance with Nova standard test procedure for its products. Customers may, by special arrangement, schedule product tests to permit Buyer's representative to witness product tests, however, this shall be at Nova's sole discretion and subject to pre-approval in writing. Title to products shall pass to Buyer upon placement of goods into the custody of the common carrier, in accordance with the Shipment and Delivery provision below.

4. **Shipment and Delivery:** Delivery shall be F.O.B. Nova's facility and title and risk of loss shall pass to Buyer upon delivery to a common carrier at said point, regardless of whether products are to be installed by, or under the supervision of Nova personnel. Unless other arrangements are pre-approved in writing by Nova, shipment shall be made freight added or freight collect by means deemed appropriate by Nova Engineering, Inc. Packaging and packing shall be in accordance with standard commercial practice for the applicable class of product.

5. **Payment Terms:** Nova Engineering, Inc. accepts orders using the following guidelines:

1. Credit Card: Visa, MasterCard or American Express
2. Check or Electronic Funds Transfer in advance of shipment
3. Letter of Credit
4. Net 30 days with approved credit on orders over \$2,500

International orders require advance deposits of 100% and a carrier account number for shipping at the time of order placement. Products are invoiced at the time of delivery to the carrier at the point of shipment, with credit for any deposit received. Invoiced amounts are due and payable in full within thirty (30) days from the invoice date. Unpaid balances aged more than thirty (30) days from the invoice date shall be subject to interest at the maximum rate permitted by law. Any products ordered for delivery outside the United States shall be accepted subject to governmental approval for export, if required, and if payment is to be made by a foreign entity, the order shall be scheduled for delivery contingent upon receipt of advance payment, a confirmed, irrevocable Letter of Credit in form satisfactory to Nova, or other mutually acceptable payment arrangement established in advance of delivery. For orders which require customization or production time of more than ninety (90) days, Nova may require an advance deposit of up to 100% of the total price.

6. **Cancellation by Nova:** Nova Engineering, Inc. shall have the right to cancel any order for its products, or to delay the shipment thereof, by reason of Buyer's bankruptcy or insolvency, or the pendency of any proceeding against the Buyer under any statute for the relief of debtors, the failure of Buyer to meet any other reasonable requirements established by Nova, including any acts or omissions of Buyer which cause delay of production.

7. **Cancellation of Custom Configurations:** In the event Buyer cancels all or any part of any order after acceptance, fails to meet any material obligation hereunder, including any payments, or requests a configuration change causing rescheduling of scheduled products, each affected order of Buyer shall be subject to a Cancellation/Rescheduling Charge of 20% or \$500, whichever is greater, which is hereby agreed to be reasonable liquidated damages and not a penalty. Custom items may be subject to 100% Cancellation Charge.

## STANDARD TERMS AND CONDITIONS OF SALE

8. **Penalties and Delays:** Nova Engineering, Inc. shall not be subject to, or otherwise become liable, under any penalty clause contained in any communication from buyer. Nova shall not be liable for any loss or damages for delay in delivery, or for failure to give notice of delay, when any such delay is due to the elements, acts of nature, omissions of Buyer, acts of civil or military authority, governmental priorities, war, riots, strikes, transportation delays, material shortages, or any other causes beyond the reasonable control of Nova Engineering, Inc. In the event of any such occurrence or delay, the scheduled date of delivery shall be automatically extended for a period equivalent to the time lost by reason of said delay.
9. **Returns:** In the event Buyer returns a standard product to Nova Engineering, Inc., a Restocking Fee will be charged to the Buyer. The Restocking Fee shall be 20% for items returned within 30 days of shipping. Returned products must include all accessories and be in resalable condition. No returns will be accepted after 30 days. Software and custom items are non-returnable. Buyer shall obtain an RMA number from Nova prior to returning a product.
10. **Nova Proprietary Information:** All Nova-owned product designs, software programs and codes, schematics, drawings, printed circuit layouts, and depictions of same, regardless of media, are the exclusive property of Nova Engineering, Inc. and are not conveyed by sale of product to Buyer. Buyer is expressly forbidden to copy by any means, replicate, disassemble, disseminate, or transfer such proprietary data for any purpose without the express written consent of Nova Engineering, Inc.
11. **Warranty:** Nova offers its standard product warranty which is furnished with each quotation and/or product delivery. There is no other warranty, and Nova expressly disavows any other warranty obligations.
12. **Limitation of Liability:** Nova, its suppliers and subcontractors shall not be responsible to Buyer or any third party in contract, tort, or otherwise for loss or damage sustained as a result of the furnishing of the supplies, information and/or services specified in Buyer's order, or for any special, indirect, or consequential loss or damage whatsoever. In any event, Nova's liability in contract, tort, under warranty, or otherwise shall be strictly limited to those remedies specified under Nova's standard warranty unless otherwise specifically agreed to in writing by an authorized representative of Nova Engineering, Inc.
13. **Indemnification:** Buyer shall indemnify and hold Nova harmless from and against any and all liabilities, responsibilities, and losses whatsoever (including without limitation, costs and expenses in connection therewith) on account of or by any reason of injury to or death of any employee, student trainee, or representative of Buyer and/or Nova, or any third party, or loss of or damage to the property of Buyer and/or Seller, any employee, student trainee, representative or any third party suffered or sustained in the course of or in connection with the production, delivery, or use of products sold under this agreement, excepting loss or damage caused by gross negligence of Nova or its employees.
14. **Patent, Trade Secret, and Copyright Indemnification:**
  - a. Nova will defend, at its expense, any action brought against Buyer to the extent that it is based on a claim that the use of Nova's product sold hereunder infringes any United States patent, trade secret, or copyright, and Nova will indemnify Buyer from any costs, damages, and fees finally award against Buyer in such action which are attributable to such claim; provided that Buyer notifies Nova promptly in writing of the claim; and provided further that, unless Buyer permits Nova to defend, compromise, or settle the claim and provides all available information, assistance, and authority to enable Nova to do so, Nova shall not be liable to reimburse Buyer for such activity. Buyer shall have no authority to settle any claim on behalf of Nova.
  - b. Nova shall have no liability for any claim of patent, trade secret, or copyright infringement based on (i) use of other than the then-current version of the product, if such infringement could have been avoided by use of the then-current version and such current version had been made available to Buyer, or (ii) use or combination of Nova's product with software, hardware, or other materials not provided by Nova.
  - c. THIS ARTICLE STATES THE ENTIRE LIABILITY OF NOVA WITH RESPECT TO INFRINGEMENT OF ANY PATENTS, TRADE SECRETS, OR COPYRIGHTS BY NOVA'S PRODUCTS OR ANY PARTS OR USE THEREOF AND NOVA SHALL HAVE NO ADDITIONAL LIABILITY WHATSOEVER WITH RESPECT TO ANY ALLEGED OR PROVEN INFRINGEMENT.
15. **Applicable Law:** This agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio, U.S.A., excluding its Conflict of Laws provision. All rights and remedies conferred by these Terms and Conditions shall be cumulative, and may be exercised singularly or concurrently. Failure to exercise any individual provision shall not be deemed a waiver of the right to future enforcement of any or all provisions.