

## **North Star Sensors Terms and Conditions of Sale**

1. **Warranties:** North Star Sensors LLC warrants that its product shall be free from defect for a period of six (6) months from the date of shipment. In the unlikely event that one of North Star Sensors LLC's products fails to function or is found to be defective through no fault of Buyer, then North Star Sensors LLC shall at its discretion, replace, repair, and/or credit Buyer for the purchase price of the product. Buyer is not authorized under any circumstances to attempt to repair, rework, or fix the product. Any attempt to repair, modify, or alter the product shall constitute a complete waiver of Buyer's warranty rights.
2. **Terms of Payment:** The terms of payment for each order shall be net cash in thirty (30) days from the date of invoice. Payments shall be made in U.S. funds at par, instruments to be drawn upon a U.S. bank. Buyer agrees to pay North Star Sensors LLC the sum of 1.5% of the delinquent balance or \$5.00 whichever is the greater, for each month or portion thereof by which the invoice amount is delinquent.
3. **Order Cancellation:** In the event Buyer chooses to cancel its order, Buyer understands that it shall be charged for all products shipped and shall be charged at the advertised and higher, smaller quantity price. Custom made and unique products are not subject to cancellation. Buyer understands and agrees that it shall be charged for all finished custom goods, work in process on custom goods, and all raw materials purchased for the production of custom goods.
4. **Returns:** There are generally no returns allowed. Specific written prior factory authorization specifying the quantity, duration, product identification, and specific cause for return must be stated in writing and authorized by North Star Sensors LLC prior to the shipment of product for a valid, authorized product return.
5. **Delays:** Seller shall attempt to meet all shipment and delivery dates requested, but in no event shall Seller be responsible or liable for failure to ship or deliver by such date. Seller shall not be liable to buyer or any third party for indirect or consequential damages due to delays in shipment of delivery of goods. Seller does not warrant or guarantee delivery. All shipments FOB Oceanside, California.
6. **Inspection of Goods:** Any and all claims of Buyer of defect or unacceptability of goods must be made promptly upon receipt of shipment. Buyer agrees to provide Seller with an opportunity to investigate and inspect such claims of defect. All inspections made by Buyer are at Buyer's cost and expense. Buyer shall have five (5) days from receipt of each shipment to object to the condition of the goods. After five (5) days have elapsed, Buyer agrees that it has accepted the goods in its entirety and shall waive any further objections concerning the condition or quality of the goods.
7. **Other Warranties:** EXCEPT AS STATED ABOVE, AND NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, OF MERCHANTABILITY, FREEDOM FROM DEFECTS, MATERIAL, WORKMANSHIP, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. SELLER SHALL HAVE NO OTHER OBLIGATION OF ANY KIND. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR THIRD PARTIES FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE USE OF ITS PRODUCT. ALL

LIABILITIES AND OBLIGATIONS OF SELLER ARE LIMITED TO THOSE SET FORTH IN THESE TERMS AND CONDITIONS OF SALE.

8. **Limitations and Liabilities:** Buyer's exclusive remedy for claims arising hereunder shall be for the replacement or repair of products proven to have manufacturing or specification defects, or the allowance of credit thereof at the option of Seller and shall be dependent upon Seller's agreement that such defect exists. Seller's liability for any and all losses and damages to Buyer from any cause whatsoever including Seller's negligence, alleged damaged or defective goods, irrespective of whether such defects are discoverable or latent shall be limited to the replacement or repair of the product proven to have manufacturing and/or specification defects, or allowance of credit thereof at Seller's option.

9. **Arms Length Negotiations:** Parties hereto this agreement understand and agree that both have been represented by counsel and have been advised specifically as to the terms and conditions made in this document and acknowledge said representation is evidenced by Buyer's acceptance of the goods listed on the face of the Sales Order.

10. **Attorneys Fees:** Should any party hereto employ an attorney for the purpose of enforcing or construing this Agreement, in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief, or other litigation, the prevailing party shall be entitled to receive from the other party or parties thereto, reimbursement for all attorney's fees and all costs, including but not limited to service of process, filing fees, court and court reporter costs, investigative costs, expert witness fees, and the cost of any bonds, whether taxable or not, and that such reimbursement shall be included in any judgement or final order issued in that proceeding. The "prevailing party" means the party determined by the court to most nearly prevail and not necessarily the one in whose favor a judgement is rendered.

11. **Arbitration:** Any controversy, dispute, or claim arising out of the interpretation, performance, or breach of this agreement (including disputes as to the jurisdiction of the arbitrator) shall be resolved at the request of any party hereto ("Initiation") directed to the American Arbitration Association ("AAA") or the Judicial Arbitration and Mediation Service, (JAMS) by a binding arbitration conducted by a single Arbitrator in San Diego County, California in accordance with the California Code of Civil Procedure section 1280 et. seq. except as modified by the terms of this Section. The arbitrator shall have the power to grant such legal and equitable remedies and award such damages as may be granted or awarded by a Judge of the Superior Court of the County of San Diego, California.

12. **Prices and Extras:** All prices and extras, and all freight or transportation rates are subject to change, without notice, to reflect Seller's prices and extras, and applicable freight or transportation rates, in effect as of the date of shipment. Unless otherwise agreed, freight will be charged from the point of original manufacture.

13. **Failure to Comply With Terms and Conditions:** Failure by Buyer to make any payment due hereunder, or on request to give proper shipping instructions, or to accept delivery at times stated, or to comply with all terms of any contract between Buyer and Seller shall give Seller, in addition to all other available remedies, the right, at its option, to deduct any undelivered quantities of material from the total quantity of material to be furnished whether under this or any other contract between Buyer and Seller. Seller retains title to all material as security until payment for same has been received.

14. **Excise, Levies, or Taxes:** Any excise, levies, or taxes which Seller is required to pay or collect, under any existing or future law or regulation, (domestic or foreign), upon or with respect to the sale, purchase, delivery, storage, processing, use, consumption, or transportation of any of the material covered hereby, shall be for the account of the Buyer and Buyer agrees to pay the amount thereof to Seller upon request.
15. **Seller's Determination:** Seller may, at any time or times, suspend performance of any order or require payment in cash, security, or other adequate assurance to Seller when, in Seller's opinion, the financial condition of Buyer or other grounds for concern warrant such action.
16. **Indemnification:** Buyer hereby indemnifies Seller against any liability whatsoever for patent, trademark, or trade name infringement in any way arising out of the preparation or manufacture of any material in accordance with Buyer's specification.
17. **Entire Agreement:** This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein.
18. **Governing Law:** This Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue for any dispute resolution shall be in the County of San Diego, California.
19. **Severability:** In the event any term, covenant, condition, provision, or agreement herein contained is held to be invalid, void, or otherwise unenforceable by any court of competent jurisdiction, the fact that such term, covenant, condition, provision, or agreement is invalid, void, or otherwise unenforceable shall in no way affect the validity or enforceability of any other term, covenant, condition, provision, or agreement herein contained.
20. **ITAR Compliance:** For any item or data obtained from the Seller, it shall not be used to manufacture anything considered a "defense article", as defined in the International Traffic in Arms Regulations (the "ITAR"), 22 CFR Parts 120-130 or to manufacture an item on the Commerce Control List (CCL). Exceptions can be made with prior written approval and ability to demonstrate rigorous compliance to ITAR.
21. **Modification:** No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge, or change is or may be sought.