

TERMS AND CONDITIONS OF SALE
(4/26/10)

Except as otherwise agreed by Tyco Electronics Canada ULC or its affiliates and/or subsidiaries ("Seller") in writing, the following terms and conditions ("Agreement") will apply to all orders received and all sales made by Seller.

1. **GENERAL:** The terms and conditions set forth herein constitute the sole and entire agreement between Seller and the Customer ("Customer") of goods and/or services from Seller with respect to the subject matter hereof. Any term or condition in any order, confirmation or other document furnished by Customer which is in any way inconsistent with or in addition to the terms and conditions hereof is hereby expressly rejected, and Seller's acceptance of any offer or order of Customer is hereby expressly made in reliance on Customer's assent to all terms and conditions hereof. If Customer objects to any of the terms or conditions hereof, such objection must be made in writing and received by Seller within 10 days after placing an purchase order. Failure to so object shall be conclusively deemed to be acceptance of the terms and conditions hereof. Seller's failure to object to any term or condition in any oral or written communication from Customer, whether delivered before or after the date hereof, shall not constitute an acceptance thereof or a waiver of any term or condition hereof. Goods are provided pursuant to the Seller's part numbers. Any Customer part numbers provided by Customer are for reference only.
2. **TAXES:** The prices set forth herein are not subject to trade or other discounts and, except as otherwise expressly stated herein, do not include federal, provincial or local sales, use, goods and services excise or other similar taxes applicable to goods or services involved in this transaction. All such taxes shall be paid by Customer unless Customer provides Seller with evidence satisfactory to Seller of exemption from such taxes. When Seller is required by law or regulation to collect such taxes, Seller will add such taxes to the sale price of the goods or services.
3. **PRICES:** The sale price(s) for goods delivered hereunder ("Products") are accepted as stated on Seller's order acknowledgment and will include the cost of Seller's usual factory tests and inspections. All quotations of Seller are subject to change at any time prior to acceptance of an order and expire thirty (30) days from the date given. All prices are subject to change without notice and may be subject to any increase which may be in effect on the date of shipment. Except as otherwise expressly stated herein, any service calls or other service work performed by Seller shall be at Customer's expense in accordance with Seller's standard rates for such services. Customer acknowledges that the pricing of the Products and services and the other terms of this Agreement have been set based on the foregoing sections of this Agreement providing for an agreed allocation of the risk for any defective Products or services between the parties. Customer further acknowledges that the pricing and terms would have been different if there had been a different allocation of the risk.
4. **DELIVERY, TITLE PASSAGE AND INSURANCE:**

(a) **Delivery.** Delivery or shipping dates are approximate only and merely represent Seller's best estimate of the time required to make delivery or shipment. Time is not of the essence with respect to the transaction covered by these Terms and Conditions of Sale, except with respect to Customer's obligation to make all related payments. Seller's obligations hereunder will be dependent upon Seller's ability to obtain the necessary raw materials. Seller will not be liable for any loss or expense (consequential or otherwise) incurred by Customer as a result of any delay in delivery for any reason other than arbitrary refusal by Seller to perform. Seller reserves the right to make partial deliveries. Lead time on orders and rescheduling are governed at Seller's discretion.

(b) **Title Passage for Sales.** Except as otherwise expressly stated herein, all deliveries hereunder will be EX-Works Seller's plant via a carrier selected by Customer at its option, or otherwise by Seller, freight collect, to Customer and will be packed in Seller's standard shipping packages. In all such cases title and risk of loss or damage will pass to Customer upon Seller's delivery of the Products to the carrier for shipment to Customer and no loss or damage will relieve Customer of any obligation hereunder, including payment for lost or damaged Products. If shipment of any Product is delayed at Customer's request, Seller may invoice Customer for such Products, and risk of loss of such Products will pass to Customer, on the date that Seller is prepared to make shipment to Customer. Customer shall reimburse Seller for any and all costs of storage incurred by Seller after the date that Seller is prepared to make shipment.

(c) **Insurance.** Customer will pay, or reimburse Seller for, all insurance on the Products. Any insurance proceeds collected by Customer for Seller's account will be promptly remitted to Seller in U.S. or Canadian Dollars. Any insurance policies purchased, whether by Customer or Seller, will be for the benefit of Seller, whether or not Seller is named as an insured in such policies, until title and risk of loss or damage to the Products pass to Customer. Where possible, all insurance policies will provide that they are for the benefit of Seller and Customer "as their interests may appear."

TERMS AND CONDITIONS OF SALE
(4/26/10)

5. **CUSTOMER'S FINANCIAL CONDITION:** This agreement and all shipments made hereunder shall at all times be subject to the approval by Seller of Customer's financial condition. If the financial condition of Customer at any time becomes unsatisfactory to Seller, in Seller's sole discretion, or if Customer fails to make any payment when due, in addition to any other rights Seller may have Seller may defer or decline to make any shipment or shipments hereunder or may condition any such shipment upon receipt of satisfactory security or cash payments in advance.
6. **PAYMENT TERMS:** Except as otherwise expressly stated herein, Seller shall invoice Customer at the time of shipment of each installment on payment terms of cash in advance, except where open account credit is established and maintained to Seller's satisfaction, in which case payment terms shall be net thirty (30) days from date of shipment. All payments shall be in United States or Canadian Dollars. Customer shall make all payments as provided herein without regard to whether Customer has made or may make any inspection or use of any Products. Any invoiced amount which is not paid when due shall bear interest at the rate of two twenty four percent (24%) per annum or the highest rate then permitted by law, whichever is less, until paid in full. Seller reserves the right to exercise any of its lawful remedies if Customer does not make payments when due. Customer shall promptly reimburse Seller for all costs and expenses, including reasonable attorneys' fees, incurred by Seller in collecting sums due it hereunder.

On orders for shipment to countries other than Canada, payment on all sales will be made through the medium of a Letter of Credit to be established by Customer at its expense including any bank, at the option of the seller, confirmation charges. All Letters of Credit will be in favor of and acceptable to Seller, will be maintained in sufficient amounts and for the period necessary to meet all payment obligations, will be irrevocable and issued, or confirmed, by a bank in Canada satisfactory to Seller within fifteen (15) days after acceptance of any order, will permit partial deliveries and will provide for pro rata payments upon presentation of Seller's invoices and Seller's certificates of delivery EX-Works Seller's factory, or of delivery into storage with certification of cause therefore, and for the payment of any termination charges.

7. **SECURITY INTEREST:** Customer hereby grants to Seller a security interest in all Products and all proceeds and products thereof until all amounts due or to become due hereunder have been paid. Any repossession and removal of Products shall be without prejudice to any of Seller's other remedies at law or in equity. Customer agrees, without further consideration, at any time to do or cause to be done, executed and delivered, all such further acts and instruments (including without limitation financing statements appropriate for filing) as Seller may reasonably request in order to perfect Seller's security interest.
8. **CONTINGENCIES:** Seller shall not be liable for delay in performance or nonperformance of any of its obligations hereunder, in whole or in part, if such performance is rendered impracticable by the occurrence of any contingency or condition beyond the control of either Seller or Seller's suppliers, including without limitation war, sabotage, embargo, riot, terrorism, or other civil commotion, failure or delay in transportation, act of any government or any court or administrative agency thereof (whether or not such action proves to be invalid), labor dispute (whether or not involving Seller's employees), accident, fire, explosion, flood or other casualty, shortage of labor, fuel, energy, raw materials or machinery or technical failure. If any such contingency or condition occurs, Seller may allocate production and deliveries in any reasonable manner and may include in such allocation any regular customers, whether or not then under contract, and Seller's own requirements. If, as a result of any such contingency, Seller's performance is delayed by more than six (6) months, the prices set forth herein shall be subject to appropriate adjustment by Seller.

9. **LIMITED WARRANTY; SUITABILITY**

(a) Except as otherwise stated herein or in an order acknowledgment delivered to Customer, Seller warrants to Customer that the Products (1) shall be free of defects in materials and workmanship for the periods set forth below (each a "Warranty Period") from date of shipment; and (2) shall be free of liens and encumbrances when shipped to Customer. If Seller agrees in writing to provide and does provide system design, drawings, technical advice, or any other services to Customer in connection with Products, then Seller further warrants to Customer during the applicable Warranty Period that such services shall be undertaken in accordance with Seller's reasonable technical judgment based on Seller's understanding of pertinent technical data as of the date of performance of such services. Seller's warranties will not apply to any Product with respect to which there has been (i) improper installation or testing, (ii) failure to provide a suitable operating environment, (iii) use of the Product for purposes other than that for which it was designed, (iv) failure to monitor or operate the Product in accordance with applicable Seller specifications and good industry practice, (v) unauthorized attachment or removal or alteration of any part of the Product, (vi) unusual mechanical, physical or electrical stress, (vii) modifications or repairs done by other than Seller, or (viii) any other abuse, misuse, neglect or accident. In no circumstance shall Seller have any liability or obligation with respect to expenses, liabilities or losses associated with the installation or removal of any Product or the installation or removal of any components for inspection, testing or redesign occasioned by any defect or by repair or replacement of a Product. Application Equipment, spare parts and hand tools ordered or supplied hereunder may contain used parts and/or be reconditioned.

TERMS AND CONDITIONS OF SALE
(4/26/10)

Products	Warranty Periods
Application equipment, including machinery, applicators, and all original parts thereof, except for expendable parts.	1 year
Hand tools and expendable parts (i.e., those parts designed by the SELLER as spare parts, spare tooling, recommended spares, perishable tooling, wearable tooling, and the like)	90 days
Undercarpet products (but this applies only to individual components or to Undercarpet Systems assembled exclusively with Seller components and in accordance with applicable Seller Instruction Sheets)	2 years
Replacement Parts	Applicable period for replaced parts
Raychem Circuit Protection Products	180 days
Precision Interconnect Cable Assemblies	1 year
CIID and Kilovac Products	1 year
Corcom Filters	1 year
Hartman Products	18 months
ALR Photocontrols 6000	8 years
ALR Photocontrols AA, AT, PT, SPT, TL, SC, MC, NS, 1000, 2000, 2100, 3000, 3100, 6100,7000, SST, D2, LM-1000 D2, LM-1000	6 years
ALR Photocontrols LC, BF, M	3 years
ALR Photocontrols PL-S, OLC	2 years
Photocontrol Accessories AM, AMR, DPO, US-30 Starter, Lumatester	2 years
Photocontrols-Exit Sign Retrofit-Led T-Lamp	25 years
Photocontrols- Time Controls, TC-100, TC-100R & PC-100R, FC	1 year
All other products and/or services	90 days

(b) Customer shall notify Seller in writing promptly (and in no case later than thirty (30) days after discovery) of the failure of any Product to conform to the warranty set forth above, shall describe in commercially reasonable detail in such notice the symptoms associated with such failure, and shall provide to Seller the opportunity to inspect such Products as installed, if possible. The notice must be received by Seller during the Warranty Period for such Product. Unless otherwise directed in writing by Seller, within thirty (30) days after submitting such notice, Customer shall package the allegedly defective Product in its original shipping carton(s) or a functional equivalent and shall ship it to Seller at Customer's expense and risk.

(c) Within a reasonable time after receipt of the allegedly defective Product and verification by Seller that the Product fails to meet the warranty set forth above, Seller shall correct such failure by, at Seller's option, either (i) modifying or repairing the Product or (ii) replacing the Product. Such modification, repair or replacement and the return shipment of the Product with minimum insurance to Customer shall be at Seller's expense. Customer shall bear the risk of loss or damage in transit, and may insure the Product. Customer shall reimburse Seller for transportation costs incurred for Products returned but found by Seller not to be defective. Modification or repair of Products may, at Seller's option, take place either at Seller's facilities or at Customer's premises. If Seller is unable to modify, repair or replace a Product to conform to the warranty set forth above, then Seller shall, at Seller's option, either refund to Customer or credit to Customer's account the purchase price of the Product less depreciation calculated on a straight-line basis over Seller's stated Warranty Period. THESE REMEDIES SHALL BE CUSTOMER'S EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY.

(d) EXCEPT FOR THE EXPRESS WARRANTY SET FORTH ABOVE, SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE PRODUCTS, THEIR FITNESS FOR ANY PURPOSE, THEIR QUALITY, THEIR MERCHANTABILITY, THEIR NONINFRINGEMENT, OR OTHERWISE. NO EMPLOYEE OF SELLER OR ANY OTHER PARTY IS AUTHORIZED TO MAKE ANY OTHER REPRESENTATIONS, WARRANTIES, OR CONDITIONS FOR THE GOODS OTHER THAN THE WARRANTY SET FORTH HEREIN. SELLER'S

TERMS AND CONDITIONS OF SALE
(4/26/10)

LIABILITY UNDER THE WARRANTY SHALL BE LIMITED TO A REFUND OF THE PURCHASE PRICE OF THE PRODUCT. IN NO EVENT SHALL SELLER BE LIABLE FOR THE COST OF PROCUREMENT OR INSTALLATION OF SUBSTITUTE GOODS BY CUSTOMER OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES.

(e) Customer assumes the risk and agrees to indemnify Seller against and hold Seller harmless from all liability relating to (i) assessing the suitability for Customer's intended use of the Products and of any system design or drawing and (ii) determining the compliance of Customer's use of the Products with applicable laws, regulations, codes and standards. Customer retains and accepts full responsibility for all warranty and other claims relating to, or arising from, Customer's products which include or incorporate Products or components manufactured or supplied by Seller. Customer is solely responsible for any and all representations and warranties regarding the Products made or authorized by Customer. Customer will indemnify Seller and hold Seller harmless from any liability, claims, loss, cost or expenses (including reasonable legal fees) attributable to Customer's products or representations or warranties concerning same.

10. LIMITATION OF LIABILITY AND INDEMNITY:

Notwithstanding any other provision herein or in any other document or communication, (a) Seller's liability and obligations with respect to any claim(s) resulting or arising from or relating to this Agreement, whether in contract, strict liability, tort or otherwise, and even if Customer's exclusive remedy fails of its essential purpose, shall in no event exceed in the aggregate the total purchase price received by Seller for the Products (or, in the case of obligations arising from or relating to particular Products or services rendered in connection herewith, the purchase price of such Products or amount received by Seller for such services, respectively), and (b) Seller shall in no event be liable to Customer or any other person or entity, whether in contract, strict liability, tort or otherwise, for special, indirect or consequential damages of any kind whatsoever, or claims of any third parties. By accepting delivery of the Products ordered, Customer agrees that it indemnifies and holds harmless Seller from and against all claims, loss, damage and liability, including without limitation for personal injury, property damage or commercial loss of whatever kind, directly or indirectly arising from or relating to the hazards inherent in Customer's facilities or activities.

11. ACCEPTANCE; RETURNS: Customer shall inspect Products promptly upon their receipt. Unless Customer notifies Seller in writing within seven (7) days after the receipt of Products or the rendering of services that the Products or services are nonconforming, describing the nonconformity in commercially reasonable detail, Customer shall be deemed to have accepted the Products or services. Customer may not revoke its acceptance of Products or services and shall be barred from any remedy unless Customer notifies Seller in writing within thirty (30) days of receipt of Products or rendering of services that the Products or services are nonconforming, describing the nonconformity in commercially reasonable detail, and that Customer considers Seller in breach. Acceptance as aforesaid shall constitute acknowledgment of full performance by Seller of all its obligations hereunder. No Products delivered and accepted under this Agreement are subject to returns except upon (a) written approval of Seller and (b) payment of a fair and equitable restocking charge as determined by Seller's restocking charge policy at the time of return.

12. PATENTS: Seller agrees to settle or defend any suit or proceeding brought against Customer insofar as such suit or proceeding is based on a claim that any Product constitutes direct infringement of any issued United States patent. Seller shall pay all damages and costs finally awarded therein against Customer, provided Seller is informed by Customer in writing within ten (10) days after receipt by Customer and furnished a copy of each communication, notice or other action relating to the alleged infringement and is given all authority (including the right to exclusive control of the defense of any suit or proceeding), information and assistance necessary to settle or defend such suit or proceeding. In the event such Product or any part thereof is, in such suit, held to constitute infringement and the use of such Product or part thereof is enjoined, Seller shall, by its own election and at its own expense, either (a) procure for Customer the right to continue using such Product, or modify it so that it becomes non-infringing or (b) remove such Product, or part thereof, and grant Customer a credit thereon and accept its return. Seller shall not be obligated to settle or defend any suit or proceeding, or be liable for any costs or damages, if the alleged infringement arises out of compliance with Customer's specifications or any addition to or modification of the Product after delivery thereof or from use of the Product or any part thereof in conjunction with other goods or in the practice of a process. Seller's obligations hereunder shall not apply to any alleged infringement occurring after Customer has received notice of such alleged infringement unless Seller thereafter gives Customer express written consent for such continuing alleged infringement. Seller shall not be bound in any manner by any settlement hereunder made without its prior express written consent, **NOR SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF PATENT INFRINGEMENT.** Seller's liability hereunder shall not exceed the purchase price paid by Customer for the allegedly infringing Product. If infringement is alleged prior to completion of delivery of a Product, Seller may decline to make further shipments without being in breach of this Agreement. **THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF SELLER FOR PATENT INFRINGEMENT AND IS IN LIEU OF ANY AND ALL**

TERMS AND CONDITIONS OF SALE

(4/26/10)

REPRESENTATIONS, WARRANTIES, OR CONDITIONS EXPRESS OR IMPLIED, IN REGARD THERETO.

Customer agrees, at its expense, to settle or defend and to pay costs and damages finally awarded in any suit or proceeding against Seller based on an allegation that any Product furnished hereunder according to designs or specifications furnished by Customer infringe any patent, provided Customer is promptly notified in writing of such suit or proceeding and is given all authority (including the right to exclusive control of the defense of any suit or proceeding), information and assistance necessary to defend or settle any such suit or proceeding.

13. **PROPERTY FURNISHED BY CUSTOMER:** If Customer furnishes any components, tools, dies, jigs or other property or facilities to Seller in connection with the performance of this Agreement, Customer shall bear all risk of loss or damage with respect to such property or facilities and shall indemnify and hold Seller harmless from and against all loss, cost, expense or liability arising in connection with its use of any such property or facilities. Seller shall not be responsible for any delay in performance or nonperformance hereunder or the failure of any Product to conform to applicable specifications resulting, in whole or in part, from Seller's use of property or facilities furnished by Customer.
14. **PROPRIETARY INFORMATION:** As used herein, the term "Proprietary Information" includes any information of a confidential or proprietary nature obtained from Seller and any information obtained from Seller which is not readily available to Seller's competitors and which, if known by a competitor of Seller, might lessen any competitive advantage of Seller or give such competitor a competitive advantage. Seller retains ownership of all Proprietary Information and all documentation which contains Proprietary Information. Customer shall not disclose, duplicate or reproduce any Proprietary Information nor shall Customer use any Proprietary Information other than in the course of performing its obligations hereunder. Customer shall take all reasonable steps to prevent the disclosure, duplication or reproduction of any Proprietary Information. Notwithstanding the foregoing, Customer shall not be required to refrain from disclosing or using any Proprietary Information-which has become known to Customer if the original source of such Proprietary Information was not Seller or any person or party affiliated with Seller or having a relationship of confidentiality with or an obligation of confidentiality to Seller.
15. **LEASED APPLICATION EQUIPMENT:** If the Customer's order is for leased application equipment, the following additional conditions shall apply:
 - a. The Seller agrees to supply to the Customer leased application equipment in accordance with conditions as stated herein for the term set forth in the sales order acknowledgement. After expiration of the original term, the lease will continue indefinitely thereafter (unless stated to the contrary on the face thereof) and shall be terminable at will by either Seller or Customer at any time on thirty (30) days prior written notice.
 - b. The initial non-refundable preparation charge, if any, for each piece of leased application equipment is as stated in writing from the Seller or on the invoice. Initial retention charges are payable in advance on date of shipment, and subsequent retention charges are payable monthly, quarterly or yearly, as requested by Customer. The Seller reserves the right to require Customer to pay retention charges annually, if the payment period elected by Customer would require Seller to invoice Customer for amounts less than \$250.00 per invoice.
 - c. The Seller reserves the right to allocate its supply of leased application equipment among its various customers according to its own discretion.
 - d. Leased application equipment delivered hereunder and all additions, replacement parts and modifications thereof shall be and remain the sole and exclusive property of the Seller. Customer shall have no title or interest therein, but shall have only the right to use said leased application equipment during said term in conjunction with terminals of the materials, dimensions and forms for which the leased application equipment is designed and any such other uses or applications as are approved by the Seller. However, no license under any patent to make or have made or otherwise acquire any terminals shall be implied or is granted.
 - e. Factory service, if required, is available at the Seller's rates in effect at the time of the service call. Factory charges will be billed to Customer for services required due to misuse or abuse of leased application equipment. Spare and replacement parts for the leased application equipment can be purchased from the Seller. Customer shall be solely responsible for any damage to the application equipment resulting from Customer's use or replacement parts not meeting Tyco's specifications. Seller shall have the right at all times during Customer's business hours to inspect the application equipment.
 - f. The right to use the leased application equipment is limited to the Customer and said leased application equipment shall not be assigned, sublet or in any way encumbered. Customer shall be responsible for said leased application equipment, and in the event this agreement is terminated pursuant to the terms herein contained or for any cause

TERMS AND CONDITIONS OF SALE
(4/26/10)

whatsoever, the Seller shall be entitled to immediate possession of the machine(s) and/or applicator(s), and the Customer shall return each of them in good order and condition, reasonable wear and tear only excepted, DDP the Seller's designated location. Customer will not remove, obliterate, or deface the Seller's name tag and may not in any way modify or alter any application equipment furnished hereunder without the prior written consent of Seller. If leased application equipment has been leased with installed third party software, upon termination of the lease and return of the leased application equipment, Customer shall return or destroy (as directed by Seller) all backup, archival and diskette/CD ROM copies of the third party software to Seller. If the leased application equipment is not returned to the Seller in accordance herewith, the Seller shall have and the Customer hereby grants an irrevocable license to enter by its servants or agents on any premises where said leased application equipment may be or may be reasonably suspected to be and to take back and retain said leased application equipment.

g. If leased application equipment delivered hereunder is for demonstration only, leased application equipment is to be returned at the end of thirty days, unless otherwise agreed in writing, in good order and condition, freight collect to the Seller's designated location.

h. The Seller shall have the right to suspend or cancel the contract or terminate the term leased application equipment at any time upon Customer making an assignment for the benefit of creditors or becoming bankrupt or insolvent, or upon a petition or voluntary assignment being filed proposing the appointment of a receiver or that the Customer be adjudicated bankrupt or insolvent or commits a bulk sale.

i. In addition to the forgoing provisions set forth in this Section 15, all orders for leased application equipment are subject to the Seller's Equipment Policy, as amended from time to time, which is posted at <http://www.te.com/content/dam/te-com/documents/policies-agreements/terms-conditions/equip-policy-114119-1.pdf> (the "Equipment Policy"). The Equipment Policy is incorporated herein by reference and shall have the same effect as if set forth herein in its entirety.

16. **CANCELLATION:** Neither this Agreement nor any release hereunder is subject to cancellation by Customer except upon (a) written request of Customer, (b) written approval of Seller, and (c) the payment to Seller of a fair and equitable cancellation charge. Because Seller's expenses related to canceling firm orders are dependent upon (i) Seller's inventory carrying costs, (ii) the likelihood of Seller quickly selling the subject Products to other Customers, (iii) Seller's other related out-of-pocket costs, and (iv) administrative costs, the amount of cancellation charge Customer shall pay to Seller will be determined solely by Seller.

CANCELLATION OF STANDARD PRODUCT: If Seller determines the Product being canceled to be Standard Product, the amount of the cancellation charge will vary according to the (a) quantity being canceled, (b) time frame between Customer's request to Seller to cancel and the order's scheduled ship date, and (c) dollar amount of order being canceled. The calculation of the exact cancellation charge will be at Seller's discretion. Any orders that constitute 25% of the total demand of any standard parts will be deemed custom and will follow the cancellation condition of custom product. In no case will the cancellation charge be less than twenty percent (20%) of the original agreed upon purchase price.

CANCELLATION OF CUSTOM PRODUCT: If Seller determines the Product being canceled to be Custom Product, Customer agrees to pay Seller for all of Seller's out of pocket costs associated with the cancellation of the order including, but not limited to: (i) raw materials, (ii) work in process, (iii) inventory carrying costs, (iv) scrapping and disposal fees, and (v) a reasonable and equitable profit for Seller, which shall not be less than twenty percent (20%) of such costs. In no case will the cancellation charge be less than Seller's actual costs (including overhead and other indirect costs). The amount of cancellation charge to be charged to Customer shall be determined at the sole discretion of Seller and may equal 100% of the amount of the order at the time of Seller's receipt of Customer's request for cancellation. Customer is entitled to receive a written notice from Seller setting forth how the cancellation charge was calculated. Upon payment of the cancellation charge, Customer shall be entitled to receive all raw materials and work in process, and Seller agrees to ship such goods to Customer at Customer's expense.

Seller reserves the right, by written notice of default, to cancel any order, without liability to Customer, in the event of the happening of any of the following: insolvency of Customer, the filing of a voluntary petition in bankruptcy by Customer, the filing of an involuntary petition to have Customer declared bankrupt, the appointment of a receiver or trustee for Customer, the execution by Customer of an assignment for the benefit of creditors, the discontinuance of business by Customer, or the sale by Customer of the bulk of its assets other than in the usual course of business.

TERMS AND CONDITIONS OF SALE
(4/26/10)

17. **RESCHEDULES:** Customer is permitted one reschedule opportunity with no charge. A reschedule cannot extend further than thirty (30) days from original ship date requested. Additional reschedules will be subject to a ten percent (10%) penalty based on total amount of the order or portion of the order rescheduled.
18. **RESALE OF COMPONENT PRODUCTS:** Customer agrees that it shall not resell any component Products purchased from Seller unless Customer is an authorized distributor of Seller's products. Seller shall not be obligated to provide any warranty service or other technical support for any component Products not purchased directly from Seller or an authorized distributor of Seller.
19. **SPECIAL PACKAGING:** Application equipment, applicators, hand tools and any associated replacement parts are excluded from general customer specifications for packaging and labeling. Other customer requests for special packaging will be considered on a case-by-case basis.
20. **NO LICENSE:** Neither this Agreement nor any purchase of Products hereunder shall be construed to confer upon Customer or its customers any license under any patent or other proprietary rights of Seller, except the right to use such goods for the purposes for which they are sold. Tooling, set-up, fitting-up, drawings, design information, and partial preparation charges when invoiced cover only part of the cost thereof to the Seller. The Customer does not acquire any right, title or interest in any tooling, set-up, fitting-up, drawings, design information, or invention or other intellectual property resulting therefrom, which remain the sole property of the Seller.
21. **NON-WAIVER OF DEFAULT:** No failure by Seller to insist on strict performance of any term or condition hereof shall constitute a waiver of such term or condition or any breach thereof, nor shall such failure in any way affect Seller's legal remedies with respect to any default by Customer hereunder.
22. **APPLICABLE LAW:** This Agreement and the sale of goods and services hereunder shall be governed by and construed in accordance with the laws of Ontario, Canada, excluding laws directing the application of the laws of another jurisdiction, and the Customer hereby attorns to such exclusive jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods will not, for any purpose, govern or apply to the sale of goods or any transactions, performance or disputes hereunder.
23. **ASSIGNMENT:** Customer may not transfer or assign this Agreement or any interest herein, by operation of law or otherwise, without the prior express written consent of Seller. Any attempted transfer or assignment without such consent shall be void. Seller may assign its rights and delegate its duties hereunder.
24. **ENTIRE AGREEMENT; MODIFICATION:** This Agreement supersedes all prior written and oral agreements and understandings between Seller and Customer with respect to the Products and services specified herein. No representation or statement not contained herein shall be binding upon Seller as a representation, warranty or condition or otherwise. No addition to or waiver, modification or cancellation of any provision hereof shall be binding upon Seller unless in writing and signed by a duly authorized representative of Seller.
25. **NOTICES:** All notices and other communications hereunder shall be in writing and shall be mailed by first-class, registered or certified mail, postage prepaid, to the parties hereto at their respective designated addresses, subject to the right of either party to change such address upon ten (10) days' prior written notice.