

## TERMS AND CONDITIONS OF SALE

1. "Seller" shall mean American Products. By accepting the offer and purchasing products from Seller, Buyer confirms that the following terms and conditions apply to Buyer's purchase of Seller's products. Even if Buyer sends Seller another form of agreement, or modifies this agreement and Seller does not respond, these terms will be the terms of Seller's agreement. If buyer does not agree with these terms, please call Seller to discuss modifications. Any modifications must be in writing and signed by Seller.

2. **TERMS AND CONDITIONS OF SALES.** Any products or services ("Products") Buyer purchases from Seller by electronic, phone, paper, or any other form of transmission are sold subject to the following: a. If Buyer already has a fully signed sales agreement currently in effect with Seller, then any term in that agreement that conflicts with these terms will be applied to Buyer's purchase; the rest of these terms and conditions will otherwise apply; b. If Buyer does not have a fully signed sales agreement with Seller, then the following is Seller's complete contract, which is governed by the substantive law of the state of Missouri, without giving effect to its conflicts of laws principles. The United Nations Convention on the International Sale of Goods will not apply.

3. **PRICE.** Product prices are determined by the confirmation Buyer receives from Seller, or, in the absence of such confirmation, by Seller's list prices in effect at the time of shipment. However, if Seller implements a general or industry specific price adjustment for any Product, all orders for such Product that are confirmed but not shipped as of the effective date of such adjustment may be re-priced accordingly. Unless otherwise agreed to, payment will be due in U.S. Dollars within thirty (30) days of the invoice date. Buyer also agrees to reimburse Seller for Seller's costs of collection, including reasonable attorney's fees, should Buyer fail to pay Seller in a timely manner, including interest at the annual rate of LIBOR plus 5%.

4. **DELIVERY.** Any delivery dates Seller quotes are estimates. Seller cannot guarantee delivery on a specific date. If shipment freight terms are prepaid/add, Shipper accepts title, damage or loss during shipment. Buyer will accept title, upon signature from a Buyer representative, at the time of delivery at the shipping destination site. If shipment freight terms are collect, title, damage or loss during shipment transfers to commercial transportation carrier and Buyer at time of shipment from Seller. Buyer grants Seller a purchase money security interest in goods Seller sells to Buyer and Buyer agrees that Seller may take actions in Buyer's name to perfect that interest as Buyer's attorney in fact; if Buyer is located in one of those places which recognizes reservation of title, Buyer agrees that Seller retain title to the goods to secure Buyer's payment for them, and Buyer assigns to Seller all proceeds from their sale or pledge.

5. **WARRANTY / LIMITS OF LIABILITY.** All telecommunication enclosures designed and manufactured by American Products shall be warranted to be free of defects in material or workmanship for a period of 5 years (U.S. & Canada) and 1 year (International) from the date of shipment. Should the product be proven to be defective, American Products will have the option to repair or replace the product. Items included with the enclosures, not manufactured by American Products, will utilize the original manufacturer's warranty. Enclosures designed by others and manufactured at American Products will carry a one year warranty for materials & craftsmanship. It is the responsibility of the buyer to communicate any special environmental concerns in which the enclosures will be utilized. Special materials may be required to allow for proper corrosion resistance for harsh environments. The warranty does not cover enclosures used in applications and environments for which they were not designed. Warranty does not cover abuse, modifications by others or reimbursement for unauthorized rework. All other goods manufactured by American Products shall be warranted to be free of defects in material or workmanship for a period of one year from the date of shipment. Should the product be proven to American Products to be defective, we shall at our option repair or replace the product. At no time will American Products reimburse purchaser for unauthorized rework on any product. Our warranty does not cover equipment manufactured by others and resold by American Products, or incorporated into our equipment. Products sold with such warranties may be extended by the manufacturer of the product. We do not warrant product that has been modified, subjected to abuse, negligence in operation or maintenance, or if product is used in a manner that exceeds its designed capabilities and rating. Under no circumstances is American Products liable for any consequential damages, liquidated damages, loss in profits or revenues, costs of capital, downtime costs or damages related to our product

6. **LIMITATION OF CLAIMS.** Seller will not be responsible for any harm arising out of Buyer's purchase, possession or use of any products supplied by Seller or any technical advice Seller may offer, except as agreed in the Limited Warranty set out above. SELLER WILL NOT BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, COST OF ANY SUBSTITUTE FOR THE PRODUCTS BUYER BOUGHT, CLAIMS OF THIRD PARTIES OR INJURY TO PERSONS OR PROPERTY.

7. **TECHNICAL ADVICE AND OTHER SERVICES.** Buyer is responsible for the design, processing, testing and labeling of any product that Buyer makes using Products Buyer buys from Seller and Buyer will not rely on anything on Seller's web site or any statement by Seller about the suitability of products or services Seller provides. Buyer has tested and investigated Products sold by Seller enough to form an independent judgment concerning their suitability for the use, conversion or processing intended by Buyer and will not make any claim against Seller based on Seller's advice, statements, information, services or recommendations.

8. **PATENTS.** Any suggestions Seller makes about possible articles, designs or use of products do not give Buyer a license under any patent covering such articles, designs or uses, nor are they a recommendation for use of such products, articles or designs which may infringe any patent. Seller will defend Buyer if there is a claim that Seller's products, as Seller delivers them to Buyer, infringe another person's patents, and if necessary will either refund the purchase price or obtain for buyer a license under those patents.

9. **EVENTS BEYOND SELLER'S CONTROL.** Seller will not be responsible if Seller cannot perform under this agreement if events beyond Seller's control occur which make it impossible or commercially unreasonable for Seller to perform, including so-called "Acts of God" or "force majeure" events and raw material shortages.

10. **TERMINATION; SUSPENSION.** Seller may terminate this agreement or adjust Buyer's payment terms effective immediately upon written notice to Buyer in the event (a) Buyer fails to pay any Seller invoice, within the time provided in this agreement on two or more occasions, (b) Buyer generally fails to pay its debts as they become due, (c) Seller reasonably believes Buyer's creditworthiness has deteriorated or Buyer is insolvent (whether based on the reasonable belief by Seller that Buyer's liabilities exceed its assets; the existence of a bankruptcy, assignment for the benefit of creditors or other similar proceeding involving Buyer; a liquidation of a significant portion of the assets of Buyer; or otherwise) and (d) of a sale of a majority of the assets, or a change of control of the ownership, of Buyer. If Buyer is in default hereunder, including by failure to pay invoices, Seller may suspend shipments of Product, require cash in advance of deliveries and/or reduce payment terms until all invoices are current and Seller receives adequate assurance of future performance.

11. **GENERAL.** Cancellation of any order, or return of any conforming Product purchased hereunder, will be subject to acceptance by Seller and to a restocking charge in accordance with Seller's policy then in effect. **ORDERS FOR CUSTOM PRODUCT MAY NOT BE CANCELLED OR TERMINATED.** Neither course of performance or dealing, nor usage of trade, nor prior writings or agreements shall be used to qualify, explain or supplement any of these terms and conditions. Failure by either party, at any time or from time to time, to require the performance by the other of any term hereof shall not constitute a waiver of such term or provision. The invalidity, in whole or in part, of any term herein, shall not affect any other term, each of which shall be enforced to the full extent permitted by law. Buyer may not assign or transfer any rights or obligations under any Sales Agreement or other agreement governed by these terms without the prior written consent of Seller. Notice shall be deemed properly given if sent by facsimile, confirmed by registered mail with return receipt, overnight courier mail, hand-delivered, or registered mail with return receipt, to the addresses set forth on the first page of this Agreement. Seller shall be entitled to reference Buyer as a customer of Seller and utilize photographs of Buyer's applications utilizing Seller's products in Seller's marketing materials.