Advantech Industries Inc.

STANDARD TERMS AND CONDITIONS

1. Acceptance of Terms and Conditions

The acceptance of the terms and conditions herein and/or attached hereto is an essential prerequisite to any contract of sale made by Seller. Such terms and conditions are an integral part of any quotation made by Seller and of Seller s formal acknowledgment of any order made by Buyer. Acceptance of any goods manufactured and delivered hereunder shall constitute Buyer s acceptance of said terms and conditions. Unless specifically agreed to, no conditions stated by Buyer in its offer or acceptance shall be binding upon Seller if inconsistent with or in addition to Seller s terms and conditions as stated herein or attached hereto in writing by an officer of Seller.

2. Warranty, Disclaimer and Limitation of Remedies

Seller warrants each item manufactured by it will, when delivered, materially comply with drawings and written specifications supplied by Buyer. Such warranty is made in favor of Buyer and may not be relied upon by others. Seller makes no expressed or implied warranties.

SELLER HEREBY DISCLAIMS ALL EXPRESSED OR IMPLIED WARRANTIES, WHETHER IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OR FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES, AND IN NO EVENT, WILL SELLER BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE OR ANY OTHER LOSS, DAMAGE, COST OR REPAIRS OF INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER BASED UPON WARRANTY, CONTRACT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION ARISING IN CONNECTION WITH THE DESIGN, MANUFACTURE, SALE, TRANSPORTATION, INSTALLATION, USE OR REPAIR OF THE PRODUCTS SOLD BY SELLER.

Buyer hereby acknowledges and agrees that under no circumstances, and in no event, shall Seller s liability, if any, exceed the net sales price of the defective product(s); no additional allowance shall be made for the labor or expense of

repairing or replacing defective products or workmanship or damage resulting from the same except as expressly set forth in this paragraph, all products and/or services provided by Seller and its employees and agents are provided as is where is and with all faults Seller s liability arising under the foregoing warranty shall not in any case exceed amounts paid by Buyer for products which are the subject of a claim. Under no circumstances shall Buyer be entitled to incidental or consequential damages or loss of profits. Warranty of the products the Seller buys is that warranty of the products manufacturer passed on to the Buyer.

3. No Warranty to Consumers

Advantech Industries, Inc. makes no warranties to those defined as Consumers in the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act. Consumers see Manufacturers Warranties below.

4. Limitation of Liability

Advantech Industries, Inc. expressly disclaims any liability for consequential and/or incidental damages for lost profits, lost sales, injury to person or property, or any other incidental or consequential loss. Advantech Industries, Inc liability is limited to, and shall not exceed, the purchase price.

5. Warranty Disclaimer

Advantech Industries, Inc. does not express or imply any warranty or affirmation of fact other than that in the limited warranty statement made above. Accordingly, Advantech Industries, Inc. does not warrant or represent that merchandise sold complies with any law, including, but not limited to, OSHA, the Walsh-Healey Public Contracts Act, and/or regulations promulgated thereunder.

6. Manufacturers Warranties

Many of the products incorporated into our Customer s designs are warranted to Consumers by their manufacturer. Copies of such manufacturers warranties are often supplied with the product, or are available from the manufacturer. Advantech Industries, Inc. may also supply manufacturers' sales literature to customers. Advantech Industries, Inc.

HOWEVER, ASSUMES NO LIABILITY FOR THE CONTENT OF SUCH MANUFACTURERS WARRANTIES OR LITERATURE.

7. Advice

Advantech Industries, Inc. assumes no obligation on assistance given or results obtained in connection with any goods sold. All such advice or assistance is given and accepted at Buyer s risk. Any decision as to use or installation of goods sold hereunder is that of the Buyer.

8. Delivery

Shipping dates are approximate and are based upon prompt receipt of all necessary information. Time is not of the essence. Seller shall have no liability for delay of delivery or failure to manufacture due to causes beyond its reasonable control, or due to acts of God, acts of Buyer, acts of governmental authority, priorities, fires, work slowdowns, strikes, floods, epidemics, quarantines or restrictions, war, riots, delays in transportation, shortages, and/or inability due to causes beyond its reasonable control to obtain necessary labor, materials, or manufacturing facilities. In the event of such delay, the date of delivery shall be extended for a period equal to the time loss by reason of such delay. If Buyer refuses to accept a delivery within thirty (30) days after a scheduled delivery date, and provided Seller has tendered delivery, Seller may cancel Buyer s order and Buyer agrees to pay Seller, as liquidated damages, the excess of the contract price for such order over amounts (if any) actually received by Seller upon sale of goods covered by such order.

In addition, Buyer agrees to pay to Seller a reasonable storage charge (as determined by Seller) for any goods not accepted for delivery by Buyer. Delivery subjects to prior sales and capacity at time of order placement. Under no circumstances will Seller be liable for liquidated damages.

9. Prices

Prices are subject to change due to cost changes of purchased materials or services. Unless otherwise stated by Seller, prices will be those set forth herein. All prices are valid as a package only. Prices quoted are good for thirty (30) days.

10. Taxes

Unless otherwise stated, Seller s prices do not include sales, use, excise or similar taxes. Consequently, in addition to the prices specified herein, the amount of any present or future sales, use, excise or other similar tax applicable to the sale of products hereunder shall be paid by Buyer, or in lieu thereof, Buyer shall provide Seller with a tax exemption

certificate acceptable to taxing authorities. In the event that Seller shall pay such taxes prior to receipt of a tax exemption certificate, or in any event Buyer shall, upon demand, reimburse Seller for such amounts.

11. Risk of loss

Risk of loss shall pass to Buyer at the time of delivery to the carrier even though selected by Seller. This provision shall apply even if the price is quoted F.O.B. destination, C.O.D. etc.

12. Transportation

Unless otherwise stated by Seller, delivery hereunder shall be made Ex-works/F.O.B. Advantech Industries, Inc., Rochester, NY with transportation expenses paid by Buyer.

13. Credit

Credit will be extended based on credit application approval. Terms of payment for first time orders will be determined after credit application review.

14. Terms

Terms of payment for shipments are net cash within thirty (30) days from the date of invoice. Invoices may be submitted on partial shipments. Terms of payment on partial shipments are also net cash within thirty (30) days and failure to make timely payment of invoices covering final or partial shipments entitles Seller at its option to withhold delivery of products ordered without liability. If shipments are delayed by Buyer, payment shall become due on the date when Seller is prepared to make shipments. If the work covered by contract is delayed by Buyer, payment shall be made based upon the purchase price and percentage of completion. Products held for Buyer shall be at the risk and expense of Buyer. from the date of the invoice. Buyer agrees to pay Seller all cost incurred (including reasonable attorneys fees) in collecting any amounts owed by Buyer to Seller.

15. Cancellation

No accepted purchase order may be modified except with Seller s prior written consent nor may it be cancelled except with Seller s prior written consent and by prior payments to Seller of a sum equal to the total of out-of-pocket expenses

incurred in connection with the purchase order, including but not limited to any charges made to Seller by suppliers for cancellation, plus reasonable sum for overhead expenses and lost profits, as determined by Seller.

16. Security

Seller reserves the right to require payment in advance or satisfactory security or guaranty that an invoice will be promptly paid when due if at any time Buyer s financial responsibility becomes impaired or unsatisfactory to Seller.

17. Patents

Buyer shall hold Seller harmless against any expense or loss (including reasonable attorneys fees) resulting from infringement of patents or trademarks arising from compliance with Buyer s designs, specifications or instructions.

18. Rights and Reservations

All drawings, designs, information, tools patterns, equipment and other items of Seller or supplied by Buyer shall remain or become, as the case may be, the property of Seller.

19. Compliance with Laws

Buyer warrants that it shall comply with all Federal, State and local laws, regulations and ordinances affecting Buyer or Seller. Seller makes no warranties with respect to compliance with such laws. Buyer shall indemnify and hold Seller harmless if it fails to comply with any such laws.

20. Jurisdiction in New York

The contract between the parties hereto shall be governed by and construed in accordance with the laws of the State of New York and shall be deemed entered into at Seller s place of Business. The parties agree that any controversy arising under the contract herein shall be determined by the Courts of the State of New York, located in Monroe County, and both parties hereby submit and consent to the jurisdiction and venue of said Courts.

21. Effect of Invalidity

The invalidity in whole or of part to any provision hereof shall not affect the validity of any other provision. If any provision, or part thereof, of this Agreement is illegal, unenforceable or invalid, that provision or part is to be treated as removed from the Agreement, but the rest of the Agreement shall be unaffected and shall remain fully enforceable.

22. Waiver

No waiver by Seller of any breach of contract shall be deemed to be a waiver of any other or subsequent breach. All rights and remedies available to Seller shall be cumulative and in addition to any other rights and remedies provided herein or by law.

23. Title

Title and Security interest to the merchandise shall remain in Seller until payment to Seller of full purchase price by Buyer. Seller retains the right to repossess and any other remedies provided by law.

24. Returns, Shortages & Non-conformity

Any claim of shortage or that the goods do not conform with the specifications of the order or model must be made in writing within seven (7) days after the delivery of the goods (as to which such claim is made) to Seller, but in no event shall the claim be later than within the time limit provided by the carrier or insurance company, otherwise such claim shall be deemed waived. The Seller reserves the right to make any changes which the Seller, in its absolute discretion, considers necessary. Goods may not be returned and will not be accepted without the prior written approval of Seller. In the event that the Buyer has verified claim of shortage or of nonconformity of the goods to the specifications of the order or the model, and if such claim has been submitted within the required time limits as set forth above, Seller shall, at its own expense, make up for the shortage of the goods, or replace or repair the goods, as the case may be, but in no event shall Seller be or become liable to Buyer or to any other person or persons for any loss or damage, direct or indirect, arising out of or caused by such incidents, or for the loss of profits, business or good will. Items

returned must first be assigned an RMA number per Advantech Industries, Inc. Return Goods Authorization policy.

25. Indemnification

The Buyer shall at its own expense apply for and obtain any permits and inspections required for installation and/or use of the products. Seller makes no promise or representation that the products or services will conform to any Federal, State or local laws, ordinances, regulations, codes or standards, except as particularly specified and agreed upon in writing by
Seller. The Seller s products are not for use in or with any nuclear facility unless specifically so stated by Seller in writing. Seller shall not be responsible for any losses or damages sustained by the Buyer or any other person as a result of improper installation or misapplication of the products. Buyer shall defend, indemnify and hold harmless Seller and its agents and employees against any loss, damage, claim, suit, liability, judgment or expense (including, without limitation, attorney s fees) arising out of or in connection with any injury, disease, or death of persons (including, without limitation, Buyer s employees and agents) or damage to or loss of any property or the environment, or violation of any applicable laws or regulations resulting from or in connection with the sale, transportation, installation, use or repair of the products by Buyer or of the information, designs, services, or other work supplied to Buyer, whether caused by the concurrent and/or contributory negligence of Buyer, Seller, or any of their agents, employees, or suppliers. The obligations, indemnities and covenants contained in this paragraph shall survive the consummation or termination of this transaction.

26. Inspection and Acceptance

Buyer shall have seven (7) days from the date Buyer receives any products to inspect such products and services and notify Seller, in writing, of any defects, nonconformance or rejection of such products. After such seven (7) day period, Buyer shall be deemed to have irrevocably accepted the products, if not previously accepted. After such acceptance, Buyer shall have no right to reject the products for any reason or to revoke acceptance. Buyer hereby agrees that such seven (7) day period is a reasonable amount of time for such inspection and revocation. Buyer shall have no right to order any change or modification to any product or service previously ordered by Buyer or its representatives or cancel any order without Seller s written consent and payment to Seller of all charges, expenses, commissions and reasonable profits owed to or incurred by Seller.

27. Recommendations by Seller

Buyer acknowledges that Seller does not make (and specifically negates, renounces and disclaims) any representations, warranties and/or guarantees of any kind or character, expressed or implied, with respect to (i) the products sold, their use, design, application of operation, their merchantability, their physical condition or their fitness for a particular purpose, (ii) the maintenance or other expenses to be incurred in connection with the products, (iii) the engineering design, fabrication, work or any other work or service (whether gratuitous or for payment) supplied by Seller and/or its agents, suppliers and employees or (iv) the accuracy or reliability of any information designs, or documents furnished to Buyer. Seller neither assumes, nor authorizes any person to assume for it, any other obligation in connection with the sale of its products and/or rendering of its services. Any recommendations made by Seller concerning use, design, application or operation of the products shall not be construed as representations or warranties, expressed or implied. Failure by Seller to make recommendations or give advice to Buyer shall not impose any liability upon Seller.

28. Force Majeure; Adjustments

If the performance by Seller is delayed or made impracticable or burdensome by any cause beyond Seller s control, including without limitation acts of God, fire, flood, explosion, vandalism, sabotage, riot, insurrection, severe weather, curtailment or termination of Seller s regular sources of supplies, inability to obtain or delay in obtaining licenses, permits, materials or equipment, acts of omissions of Buyer, its agents or representatives, shipping delays, strikes or other disputes involving Seller or its subcontractors or suppliers or any existing or future laws or acts of any government or regulatory body, then (i) Seller shall be excused from performance to the extent that and for so long as such performance is delayed or made impracticable or burdensome by such cause, and (ii) Seller may adjust the price of the goods.

29. Customer Supplied Material

Advantech Industries, Inc. will not accept responsibility for Customer supplied materials that become scrap during machining or alteration. Advantech Industries, Inc. will take every precaution to eliminate possibilities of such an occurrence. If Customer supplied materials are found to be defective during machining, the Customer will be expected to pay for all work performed and cost incurred to the point of determination that the material will be unusable.

30. Notices

Any notice to be given to a party under this Agreement must be in writing and must be sent post, facsimile or via email to the address of the party as set forth in the purchase order.

31. Joint and Several Liability and Guaranty

Where there is more than one Buyer or the obligations of the Buyer under this Agreement are guaranteed by another party, then the liability of each such Buyer/Guarantor shall be joint and several.

32. Attorney s Fees and Costs

Reasonable attorney s fees and costs shall be awarded to Seller in the event it is the prevailing party in any legal proceeding or action to recover amounts due for goods sold to Buyer or in any legal proceedings involving the enforcement or interpretation of this Agreement or the Terms and Conditions hereof.

33. Entire Agreement

No agent, employee or representative of the Seller has any authority to bind the Seller to any affirmation, representation or warranty concerning the goods sold under this contract unless such affirmation, representation or warranty is specifically included within this Agreement. No modification or alteration of the foregoing disclaimer of warranty and limitation of remedies provisions shall be valid or enforceable unless set forth in a separate document issued and executed by the Seller