

AKOUSTIS SALES TERMS AND CONDITIONS

Unless otherwise specifically agreed to in writing by Akoustis, Inc. (including its parent company and wholly-owned subsidiaries, "Seller"), these Sales Terms & Conditions (the "Agreement") shall apply to any and all orders placed by you as "Buyer" for products or services of Seller ("Products" and "Services," respectively). In this Agreement, the Seller company designated in Seller's order acknowledgement is referred to as "Seller" and the party to whom Seller's order acknowledgement is addressed is referred to as "Buyer".

- 1. ACCEPTANCE.** Seller's acceptance of all orders issued by Buyer ("Orders") and all offers and sales by Seller are subject to and expressly conditioned upon Buyer's assent to the terms and conditions of this Agreement. The Agreement consists of these sales terms and conditions, Seller's quotation, if any, and Seller's Order Acknowledgement (OA). Buyer's acceptance of any offer by Seller must be made on such terms and conditions exactly as offered by Seller. Any of Buyer's terms and conditions that are different from or in addition to those contained in this Agreement is objected to by Seller and shall be of no effect. Any purported change submitted by a purchaser in any additional documentation is hereby expressly rejected. Orders placed on forms deviating from these terms and conditions may be accepted, but solely on the basis that the terms of these Conditions of Order will prevail and such terms will be the sole terms governing the Order. Commencement of performance or shipment shall not be construed as acceptance of any of Buyer's terms and conditions that are different from or in addition to those contained in the Agreement. If a contract is not earlier formed by mutual agreement in writing, acceptance by Buyer of products or services furnished by Seller pursuant hereto shall be deemed Buyer's assent to all of the terms and conditions of this Agreement.
- 2. PRICING.** Proposals for Seller to supply products to Buyer are valid for 30 days from issuance unless otherwise agreed to by Seller in writing. Orders may not be cancelled or modified, either in whole or part, without Seller's express written consent. If Seller consents to any order modification or cancellation, it may impose an Order modification or cancellation fee. All prices are as stated in Seller's quote and specifically override any prices referenced in Buyer's purchase order. Prices for Orders for immediate shipment are prices in effect at time of receipt of Order. Qualifying Orders specifying future delivery will be invoiced at prices and terms in effect at time of shipment. The prices stated in this Agreement are in U.S. dollars and do not include transportation, insurance or any sales, use, excise or other taxes, duties, fees or assessments imposed by any jurisdiction. Any amounts paid at any time by Seller that are the responsibility of Buyer shall be invoiced to Buyer and reimbursed to Seller. All prices and other terms are subject to correction for typographical or clerical errors.
- 3. PACKAGING AND SHIPPING.** Transportation, freight charges, packaging, insurance, packing or returnable containers shall be set forth in this Order and shall be paid by Buyer. Seller shall prepare and pack the Products to prevent damage and deterioration and to comply with carrier tariffs and Buyer's specifications, if any. Damage to any Products resulting from improper packaging will be charged to Seller. If to comply with Buyer's required delivery date it becomes necessary for Seller to ship by a more expensive method than specified in the Order, Seller shall notify Buyer prior to shipment that these conditions exist and any increased transportation costs resulting therefrom shall be paid for by Buyer unless both parties mutually agree in writing the necessity for such rerouting or expedited handling has been solely caused by Seller.
- 4. TERMS OF PAYMENT AND PAYMENT.** (i) Terms of payment are payment in advance, except where satisfactory open account credit is established and confirmed in writing, in which case terms are net thirty (30) days from the date of invoice. The amount of credit or terms of payment may be changed or credit withdrawn by Seller at any time for any reason, in its sole discretion. Seller reserves the right at any time to revoke any credit extended to Buyer for any risk deemed sufficient by Seller. Seller

will issue invoices on delivery in the case of all Products delivered on credit; if deliveries are made in installments, each shipment shall be invoiced and payable when due without regard to other scheduled deliveries. Overdue payments shall be subject to finance charges computed at a periodic rate of 1.5% per month (18% per year) or, if less, the maximum rate permitted by law. All amounts owed by Buyer with respect to which there is no dispute shall be paid without set-off of any amount that Buyer may claim is owed by Seller and regardless of any other controversies that may exist. In the event of default by Buyer, Seller shall be entitled to recover from Buyer costs, fees, and expenses incurred by Seller in collecting amounts owed by Buyer, including, reasonable attorneys' fees, court costs and other costs of collection. (ii) Products and Services shall be deemed accepted upon payment of the applicable invoice, or upon ten (10) business days after delivery unless Buyer objects in writing thereto during such ten (10) business day period, whichever occurs first. After acceptance, Orders shall be subject to adjustment only for errors and shortages. Any failure of Seller to meet the requirements of the Order shall be set forth in writing by Buyer within ten (10) days of receipt of the Products or Services. Payment due dates, including discount periods, will be computed from the date of receipt of all products and services or date of receipt of corrected invoices, whichever is later. Payment shall be Net thirty (30) days after receipt of correct invoice, unless otherwise stated on the face of the order.

- 5. RESCHEDULING AND CHANGES.** Subject to Seller's agreement in writing to any changes, Buyer may, not less than ninety (90) days prior to the scheduled shipment date for an Order, request on a one-time basis changes in packaging, quantities, time of shipment (no more than sixty (60) days after the original shipment date), shipping destination, and method of transportation. If any such rescheduling or other changes cause an actual increase or decrease in the cost or the time required for performance of this Order, Seller shall notify Buyer in writing (including the amount of the increase or decrease), within thirty (30) days after receipt of such Buyer's change notice. If such notice is timely given, an equitable adjustment in the cost or delivery date shall be made, and this Order shall be modified in writing accordingly.
- 6. DELIVERY.** Unless otherwise provided, this is a destination contract, F.O.B. (ex works for shipments outside the United States) at Seller's designated shipping location. Seller shall make all arrangements for the transportation and insurance of the Products, which shall be added to the Buyer's invoice or billed collect.
- 7. TERMINATION AND CANCELLATION.** Orders are not subject to rescheduling, termination or cancellation unless Buyer indemnifies Seller fully against all costs or expenses arising in connection therewith.
- 8. PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY.** This Agreement is not a works for hire agreement. Each Party retains all intellectual property rights it has or creates prior to (or independent of) the performance of this Agreement, and it creates in the performance of this Agreement. Buyer agrees that it shall not reverse engineer, disassemble or otherwise attempt to discover any mask work, materials, formulae, composition, recipes, internals or manufacturing processes embodied in Products, except to the extent enforcement of the foregoing is prohibited by applicable law. Unless expressly stated in the Agreement, nothing in the Agreement shall be deemed to grant a Party any rights (whether express, or by way of implication, estoppel or otherwise) under any intellectual property right of the other Party. Buyer (at its own expense) shall indemnify and hold harmless Seller and defend or settle any action brought against Seller to the extent that it is based on a claim that any Product made to Buyer specifications infringes intellectual property rights of a third party. Notwithstanding any charges to Buyer for engineering Services or tooling, all engineering (including designs, know-how, and other intellectual property resulting from engineering Services) and tooling shall remain the exclusive property of Seller. All non-public information and materials supplied by Seller to Buyer relating to the Products (including but not limited to information marked with a

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confidentiality legend or identified by Seller as confidential) are confidential and proprietary and constitute Confidential Information of Seller, and Buyer shall limit distribution thereof to its trusted employees, strictly prevent disclosure to any third party, and take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information.

9. **AUTHORIZED REWORK.** Seller is permitted to use substitute material, to replace defective articles or to repair or rework them without Buyer's written permission.
10. **BUYER'S PROPERTY.** All property held or used by Seller in connection with this Order that is owned or furnished by Buyer including, but not limited to materials, tools, dies, jigs, molds, test hardware, patterns, fixtures, equipment, and drawings, and any replacement thereof, shall be and remain the property of Buyer and be subject to return by Seller at Buyer's expense promptly after request by Buyer.
11. **LIMITED WARRANTY.** Seller's exclusive warranty for Products is that the Products will materially conform to Seller's then current published documentation for a period of twelve months from the date of sale by Seller (or such other period specified in writing by Seller). Seller's exclusive warranty for Services is that the Services will be performed by qualified personnel according to the description of services to be performed. Products manufactured by Seller to Buyer's designs are provided "as is" and Seller makes no conditions, warranties or representations of any kind with regard to such custom Products, including without limitation, any implied warranties of satisfactory quality, merchantability, fitness for a particular purpose, title and non-infringement, all of which are, to the extent permissible by law, hereby expressly excluded. Seller provides any software or hardware manufactured or developed by a third party on an as-is basis, without warranty of any kind; Seller agrees to use commercially reasonable efforts to transfer any license and warranties provided by such third party to Buyer if Buyer requests. **EXCEPT FOR THE FOREGOING LIMITED WARRANTY, SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPATIBILITY OR INTEROPERABILITY, QUIET ENJOYMENT, QUALITY OF INFORMATION, AND TITLE/NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SELLER OR ITS AUTHORIZED REPRESENTATIVES WILL CREATE ANY WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF SELLER'S OBLIGATIONS HEREUNDER.**
12. **SUITABILITY.** IT IS THE BUYER'S SOLE RESPONSIBILITY TO ENSURE THAT ANY PRODUCT IS FIT AND SUFFICIENT FOR ITS INTENDED USE. BUYER SHALL BE SOLELY RESPONSIBLE FOR DETERMINING APPROPRIATENESS OF THE PARTICULAR PRODUCT WITH RESPECT TO THE BUYER'S APPLICATION INCLUDING (A) ELECTRICAL OR ELECTRONIC COMPONENTS, (B) CIRCUITS, (C) SYSTEM ASSEMBLIES, (D) END PRODUCT, (E) SYSTEM, (F) MATERIALS OR SUBSTANCES OR (G) OPERATING ENVIRONMENT. Buyer acknowledges that it alone has determined that the Products and Services will meet its requirements of the intended use in all cases. Buyer must know and observe all prohibitions of use applicable to the Product/s.
13. **PROHIBITED USES: PRODUCT SOLD BY SELLER TO BUYER HEREUNDER IS NOT DESIGNED OR INTENDED FOR USE IN APPLICATIONS WHERE FAILURE CAN REASONABLY BE EXPECTED TO RESULT IN PERSONAL INJURY OR DEATH (INCLUDING, WITHOUT LIMITATION, FOR, NUCLEAR OR SAFETY EQUIPMENT, AUTONOMOUS VEHICLE CONTROL, FOR SURGICAL IMPLANT, FOR RESCUE OF PERSONS OR TO SUPPORT, PROTECT OR SUSTAIN LIFE). BUYER USES, MARKETS, AND SELLS THE PRODUCT FOR SUCH APPLICATIONS AT ITS SOLE RISK AND EXPENSE, AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL DAMAGES, COSTS OR EXPENSES ARISING FROM ANY CLAIM OR**

ACTION OF ANY THIRD PARTY BASED ON THE ACTUAL OR ALLEGED FAILURE OF A DELIVERABLE TO PERFORM SUCH APPLICATIONS AND AGREES THAT AKOUSTIS' WARRANTY IN THIS AGREEMENT DOES NOT EXTEND TO ANY SUCH APPLICATIONS.

14. **LIMITATION ON LIABILITY: SELLER AND ITS AFFILIATES, LICENSORS, AND SUPPLIERS SHALL NOT BE LIABLE TO BUYER, ITS CUSTOMERS, OR ANY OTHER THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR PRODUCTION OR COMMERCIAL LOSS IN ANY WAY CONNECTED WITH THE PRODUCTS AND SERVICES, WHETHER SUCH CLAIM IS BASED IN CONTRACT, WARRANTY, NEGLIGENCE OR STRICT LIABILITY. FURTHER, IN NO EVENT SHALL LIABILITY OF SELLER OR ITS AFFILIATES, LICENSORS, AND SUPPLIERS EXCEED THE INDIVIDUAL PRICE OF THE PRODUCT OR SERVICE ON WHICH LIABILITY IS ASSERTED. SELLER SHALL NOT BE LIABLE FOR ANY MALFUNCTION OF THE PRODUCT OR BUYER'S APPLICATION CAUSED BY ANY USE OF THE PRODUCT WITH ANY OTHER PRODUCT NOT SUPPLIED BY SELLER FOR SUCH SPECIFIC USE. IN ADDITION, SELLER SHALL HAVE NO LIABILITY FOR ANY INTELLECTUAL PROPERTY INFRINGEMENT OR SIMILAR CLAIMS, EXPENSES OR LIABILITIES OF ANY TYPE, INCLUDING BUT NOT LIMITED TO IN CONNECTION WITH: (i) USE AND/OR APPLICATION OF THE PRODUCT IN COMBINATION WITH ANY DEVICE, COMPONENT, SOFTWARE, APPLICATION OR DATA NOT SUPPLIED BY SELLER, (INCLUDING BUT NOT LIMITED TO BUYER'S AND ITS CUSTOMER'S PRODUCTS); (ii) ALTERATION OF THE PRODUCTS BY BUYER OR ANY THIRD PARTY; OR (iii) USE OF THE PRODUCT IN ANY MANNER OTHER THAN FOR WHICH THEY HAVE BEEN DESIGNED.**
15. **INDEMNIFICATION:** Buyer shall indemnify and hold harmless Seller, its affiliates and its employees from and against all liabilities, losses, claims, costs and expenses (including attorney's fees and expenses) related to any claim, investigation, litigation or proceeding (whether or not Seller is a party) which arises or is alleged to arise from Buyer's breach, acts or omissions under this Agreement or in any way with respect to the Products or Services, including Buyer's or its customers' decisions to combine those Products with non-Seller products.
16. **EXPORT:** Buyer agrees that it will comply with all applicable import, export, shipping and other laws related to the packaging and shipping of Product. Buyer agrees that it will not use, distribute, transfer or transmit any Product (including replicated software or technical information, even if incorporated into other products) provided under this Agreement except in compliance with U.S. export laws and regulations (the "U.S. Export Administration Regulations" or "EAR"), and any applicable import laws in any non-U.S. destination country. Buyer also agrees that it will not, directly or indirectly, export or re-export Product to any country which is in the then current list of prohibited countries specified in applicable export laws. Buyer's obligations under this Agreement shall be excused to the extent required to remain in compliance with applicable import, export, shipping and other laws and orders in effect at the time of shipment. The obligations stated above in this clause will survive the expiration, cancellation or termination of this Agreement or any other related agreement.
17. **ITAR:** Buyer acknowledges that Akoustis shall not provide to Buyer any technical data controlled under the U.S. International Traffic in Arms Regulation ("ITAR") under this Agreement.
18. **REMEDIES; WAIVER; MISCELLANEOUS.** (a) No remedy herein provided shall be deemed exclusive of any other remedy allowed by law. (b) Risk of loss of the products shall pass to Buyer at the time they are actually delivered at Seller's point of shipment. (c) No failure or delay by Seller in exercising any right and no course of dealing between Buyer and Seller shall operate as a waiver of any rights of Seller. (d) If any provision hereof is rendered ineffective or invalid, such provision shall not invalidate any other provision and all other provisions shall be given full force and effect. (e) Buyer may not assign its rights hereunder without the written consent of Seller. (f) This Agreement may only be amended by a writing

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specifically referencing this Agreement which has been signed by authorized representatives of both Parties.

19. FORCE MAJURE. In the event of an actual or potential delay or failure of performance because of acts of God, war, civil commotion, acts or requirements of government, earthquake, fire, theft, corrosion, floods, water damage, lightning, freeze-ups, strikes, lockouts, other labor disputes or differences with workers, riots, terrorist activity, explosions, epidemics and pandemics, quarantine restrictions, delays in transportation, shortage of vehicles, fuel, labor or materials, accidents to machinery, acts of sabotage or malicious mischief, or other causes beyond Seller's control, Seller shall promptly give notice thereof to Buyer. In the event of any of the foregoing, Buyer shall have the option of either (i) extending the time for performance; or (ii) terminating the uncompleted portion of the Order at no cost to Buyer.

20. APPLICABLE LAW AND DISPUTES. This transaction and any contract resulting from this order, shall be governed by, and construed and enforced in accordance with the internal laws of the State of North Carolina without reference to its conflict of law provisions. If the products to be furnished under this Agreement are in support of a US government contract or subcontract, then Seller acknowledges and accepts Federal Acquisition Regulation (FAR) 52.244-6. Any other flow down requirements are expressly rejected unless reviewed and accepted in writing by Seller. Any dispute arising out of this order shall be resolved by binding arbitration before the American Arbitration Association in the State of North Carolina. The award shall include reasonable attorney's fees to the prevailing party and be enforceable in any court having jurisdiction.