

AZTECH LABS, INC.'S STANDARD TERMS AND CONDITIONS OF SALE

All purchases by Buyer from Aztech Labs, Inc. including its associated companies (hereinafter collectively referred to as "Aztech") and sales by Aztech to Buyer shall be governed exclusively by these terms and conditions of sale. Any variation of these conditions in any documents of the Buyer is inapplicable unless accepted in writing by Aztech.

- 1 **Payment.** The time within which the Buyer is to pay for the said Products shall be the essence of this Contract. Under no circumstances shall the Buyer be entitled to make any deduction or to withhold payment for any reason whatsoever. If the Buyer fails to make payment when due or defaults in any way, Aztech (i) reserves the right to withdraw credit and thereby suspend or cancel performance under any or all of Buyer's purchase orders and/or (ii) reschedule the order at Aztech's sole discretion. Each shipment shall be separately invoiced and paid for without regard to other shipments.

- 2 **Prices.** Prices are exclusive of country, provincial, state or local import and export fees, custom duties, tariffs or other charges related to exporting and importing the Products. Any charge for freight and handling will be borne by the Buyer. Buyer shall be fully responsible for presenting all related documentation to the relevant authorities and to the accuracy of the said documents.

- 3 **Delivery** Any time or date for delivery named by Aztech is an estimate only and Aztech shall not be liable for the consequence of any delay. Aztech may make deliveries in installments with appropriate partial invoicing issued therefor.

4. **Cancellation / Rescheduling.** No order which has been accepted by Aztech may be cancelled or rescheduled by the Buyer except with the agreement in writing of Aztech and on terms that the Buyer shall indemnify Aztech in full against all loss (including loss of profit), costs (including the cost of all labor and material used), damages, charges and expenses incurred by Aztech as a result of cancellation or rescheduling.

In the case of partial completion of an order Aztech shall be entitled to a quantum meruit in respect of Products delivered without prejudice to any claim or right Aztech might otherwise make or exercise should non-completion be occasioned by the Buyer.

5. **Warranty.** No condition is made or to be implied nor is any warranty given or to be implied as to the life or wear of the Products supplied or that they will be suitable for any particular purpose or use under any specific conditions, notwithstanding that such purpose or conditions may be known or made known to Aztech.

6. **Software.** Software delivered hereunder is furnished "As Is" basis. Aztech makes no warranties, whether express or implied with respect to such software and documentation describing such software, its quality, its performance, merchantability, or fitness for a particular purpose. The entire risk as to the quality and performance of software documentation describing such software is with the Buyer.

7. **Inspection of Goods.** The Buyer shall inspect the said Products immediately upon the completion of the delivery of the Products and shall within three (3) days from such inspection give notice in writing to Aztech of any matter or thing by reason whereof he alleges that the Products are not in accordance with the Contract. If the Buyer shall fail to give such notice the said Products shall be deemed to be in all respects in accordance with the Contract and the Buyer shall be bound to accept and pay for the same accordingly.
8. **Interest on Late Payment.** Aztech shall be entitled to charge interest at 2% per month on a day to day basis in respect of any amount of money due and owing to Aztech by the Buyer for the period of default.
9. **Title and Risk of the Products.** Notwithstanding delivery and acceptance, title to all the Products shall not pass to the Buyer but shall be retained by Aztech until full payment for the Products has been received by Aztech from the Buyer. Risk in the Product shall pass to the Buyer upon delivery of the Product. In the event that the Buyer fails to pay any of the installment set out in this Contract and fails to make payment within three (3) days from the date of notice from Aztech. Aztech shall:
 - (i) have absolute authority to retake, sell or otherwise deal with or dispose of any part of the Products in which title remains vested in Aztech and for this purpose, Aztech or any of his agents or authorized representatives shall be entitled at any time and without notice to enter upon the Buyer's premises or any part thereof is installed, stored or kept, or is reasonably believed so to be;
 - (ii) be entitled to seek a court injunction to prevent the Buyer from selling, transferring or otherwise disposing of the Products and to forfeit and retain all payments made by the Buyer to Aztech pursuant to this contract or any other contract.
10. **Intellectual Property Rights Indemnity.**
 - (a) If any claim is made against the Buyer that the Products infringe or that their use or resale infringes the patent, copyright, design, trade mark or any other industrial or intellectual property rights of any other person (the "Infringing Act"), then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer, Aztech shall indemnify the Buyer against all loss, damages, costs and expenses, except consequential damages, awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:
 - (i) The Buyer notifies Aztech in writing as soon as is practicable (and in any event within three (3) Business Days) of any such claim or threatened claim that is received;
 - (ii) Aztech is given full control of any proceedings or negotiations in connection with any such claim;
 - (iii) The Buyer shall give Aztech all reasonable assistance for the purpose of any such proceedings or negotiations;
 - (iv) Except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the prior written consent of Aztech;

- (v) The Buyer shall do nothing which would or might vitiate any insurance policy which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy;
- (vi) Aztech shall be entitled to the benefit of, and the Buyer shall accordingly account to Aztech for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim;
- (vii) Without prejudice to any duty of the Buyer at common law, Aztech shall be entitled to require the Buyer to take such steps as Aztech may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which Aztech is liable to indemnify the Buyer under this clause;
- (viii) Aztech shall not be liable to indemnify the Buyer if Aztech is not itself fully indemnified by the relevant component manufacturer/vendor for any Infringing Act which may be committed by the Buyer or any other third party; and
- (ix) Aztech has been fully reimbursed by the relevant component manufacturer/vendor pursuant to the indemnity given by the component manufacturer/vendor as referred to in Clause 10(viii).

For the avoidance of doubt, Aztech shall not be liable to the Buyer under any circumstances whatsoever if Aztech has not obtained any indemnity from the relevant component manufacturer/vendor.

- (b) Where the Products or any parts and/or components thereof are not obtained by Aztech from any component manufacturer/vendor or any other party, Aztech shall not be liable to indemnify the Buyer against any claims that the Products or any parts and/or components thereof infringe or that their use or resale infringes the patent, copyright, design, trade mark or any other industrial or intellectual property rights of any other person.
11. **Disclaimer.** Aztech shall not under any circumstances whatsoever be liable for any loss, injury, damage or delay arising out of any cause whatsoever beyond Aztech's reasonable control or any malfunctioning of or defect in or failure of any of the Products or any loss of the use of any item of the Products.

Aztech shall not be liable for and the Buyer shall indemnify and hold Aztech harmless against any claim by or loss or damage to any person or property directly or indirectly caused by the Buyer.

12. **Limitation of Liability.** Notwithstanding anything to the contrary elsewhere herein, Aztech shall not be liable for any incidental, special, remote or consequential damages (including but not limited to the loss of revenue or profits) arising from or caused, directly or indirectly by the use of the Products by the Buyer, or by the performance or failure of Aztech to perform under this Contract or by any other act or omission of Aztech, or by any other cause. In no event will Aztech's total liability to Buyer for any cause exceed the sum paid to Aztech by Buyer for the Products sold hereunder.

- 13 **Breach of Contract.** If the Buyer shall make any default in or commit a breach of this Contract or any other obligation to Aztech, or if any distress or execution shall be levied upon the Buyer's property or assets, or if the Buyer shall make or offer to make any arrangements or composition with creditors, or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the Buyer is a limited company resolution or petition to wind up such company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed, Aztech shall have the right forthwith to determine any Contract then subsisting and upon written notice of such determination being posted to the Buyer's last known address any subsisting Contracts shall be deemed to have been determined without prejudice to any claim or right Aztech may otherwise make or exercise.
14. **Legal Fees.** In the event that any action is brought by Aztech to enforce any provision of this Contract, Aztech shall be entitled to recover from the Buyer, in addition to the amount of any judgment, its lawyers fees and other related expenses.
- 15 **Prohibition by the law.** Any provision of this Contract prohibited by applicable law or by any court decree shall be ineffective to the extent of such prohibition, but such provision shall not in any way invalidate or affect the remaining provision of this Contract.
- 16 **Waiver.** Failure or neglect by Aztech to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of Aztech's rights hereunder nor in any way affect the validity of the whole or any part of this Contract nor prejudice Aztech's rights to take subsequent action.
- 17 **Force Majeure.** Aztech shall not be liable to the Buyer for any delay or breach caused or arising out of war, rebellion, civil commotion, strikes, industrial disputes, fire, earthquakes, the unavailability if deliveries of Products or supplies or the requisitioning or other act or order by any government department, council or other constituted body or other acts of God or other happenings that are beyond Aztech's control.
- 18 **No Assignment of Contract.** This Contract shall not be assignable by either party save that Aztech shall be permitted to assign this Contract to any of its subsidiaries, related or associated companies.
- 19 **Applicable Law.** The validity, construction and performance of this Contract and any other contract between the Buyer and Aztech shall be governed by the laws of the State of California. All claim or suit with respect to this Contract and other contracts shall be brought in the jurisdiction of the courts of the State of California.
- 20 **Entire Agreement.** This Contract embodies the entire agreement between the parties hereto, supercedes all other prior agreements between the parties in connection with the sale of Products described herein.

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