



Terms and Conditions of Sale

1. Contract Formation. Fast-Rite International, Inc. (the "Seller") agrees to sell the products described per each invoice only upon the terms and conditions of sale set forth herein, which accordingly, supersede any of Buyer's additional, different or inconsistent terms or conditions. If Seller does not receive written objection of any of these terms or conditions within ten (10) days or if Buyer accepts delivery of the products, these terms shall be deemed accepted by Buyer. Failure of Seller to object to provisions contained in any purchase order or communication from Buyer shall not be construed as an acceptance of any provision nor as waiver of these terms and conditions.

2. Payment Terms and Prices. Unless otherwise agreed in writing, payment terms shall be net thirty (30) from the date of invoice. Balances remaining unpaid at due date are subject to an interest charge of 1.5% per month, or the highest rate permitted by law, whichever is lower, until paid. Any discounts, rebates, administrative fees, credits, or other fees due or owed to Buyer will be applied against the delinquent balances before payment or reimbursement is made.

Unless otherwise agreed in writing, all payments are to be in United States dollars. In the event that Seller is required to bring legal action to collect delinquent accounts, Buyer agrees to pay reasonable attorney fees and costs of suit.

3. Delivery. (a) Unless otherwise agreed in writing, freight charges will be collect and delivery will be F.O.B. origin where risk of loss passes to Buyer. Seller may make delivery in installments or partial shipments. All such installments or partial shipments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve the Buyer of its obligation to accept remaining deliveries. Seller reserves the right to undership or overship within ten percent (10%) of specified quantities and to make delivery prior to schedule date. (b) If shipment is deferred at Buyer's request, payment shall be due and payable upon notification by Seller

that products manufactured pursuant to this agreement are ready for shipment. In case of such delay in shipment, storage shall be at the Buyer's risk and expense.

(c) Seller shall not be liable for any costs, expenses or damages of any nature (whether general, consequential, as a penalty or liquidated or otherwise) arising out of or owing to (i) any delays in delivery or (ii) failure to make delivery at agreed or specified times due to circumstances beyond Sellers reasonable control. In the event of any such delay, the date of delivery shall be extended for a period equal to the times lost by reason of the delay.

(d) The company reserves the right to add a handling fee to freight charges.

4. Security Interest. Seller retains a security interest in the products until Buyer has paid in cash the full purchase price when due, interest at the highest lawful contract rate until so paid and the costs of collection including reasonable attorney's fees. Buyer shall perform all acts necessary to perfect retention of the Seller's security interest against the rights or interest of third persons. In the event Buyer defaults in payment of any part of the purchase price when due or fails to comply with any



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provisions of this contract. Seller shall have the remedies available under the Uniform Commercial Code.

5. Warranty. (a) **EXCEPT AS EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED WITH RESPECT TO ANY PRODUCTS, PARTS OR SERVICES PROVIDED BY SELLER INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, APPLICATION OR USE.** Seller warrants that products designed and manufactured by Seller will, for a period of two (2) years from the date of shipment, be free from substantial defects in design, material and workmanship. If the foregoing warranty is breached, Seller shall, in its sole discretion, replace, issue credit or refund the purchase price without charge to Buyer. Products distributed, but not manufactured, by Seller are not warranted by Seller, and Buyer must rely solely on the representations and warranties, if any, provided directly to Buyer by the manufacturer of such products.

(b) The warranties provided for herein are subject to the following: (1) Before ordering and purchasing products, Buyer shall determine the suitability of the product for its intended use, and Buyer assumes all risk and liability therefore; (2) In order to assert a warranty claim Buyer must (i) provide immediate written notice to Seller; and (ii) return the product to Seller or its designated agent with transportation charges prepaid; (3) Seller shall conduct an examination of the product to determine if the product is defective; (4) No warranty shall apply if: (i) a product has not been properly installed; (ii) a product has not been properly used within the usual and customary limits of ratings for normal usage; and, (iii) any repairs, alterations or other work has been performed by Buyer or others on such product, other than work performed with Seller's authorization and according to its approved procedures; (5) the alleged defect is a result of abuse, misuse, improper maintenance, accident or the negligence of any party other than Seller; (6) the warranty set forth herein is conditioned upon usual and customary installation, use and maintenance; (7) all remedies provided herein shall be the sole and exclusive remedies of the Buyer.

(c) Identity of visible defects, quantity shortages or incorrect product shipments and extent of damage or loss must be noted on Buyer's copy of delivery documents by the agent of the transportation company. If damage is discovered after receipt of shipment, Buyer must notify the transportation company immediately and request that inspection be made and an inspection report rendered. Concealed shortages or damages within palletized shipments must be reported to Fast-Rite Customer Service within ten (10) business days of delivery as provided for below, or credit will not be allowed. This claim must be accompanied by a delivery receipt or an inspection report upon which the transportation company has properly noted such damage or loss.

(d) Failure to notify Seller in writing of any visible defects in the products or of quantity shortages or incorrect shipments within ten (10) business days shall be deemed an unqualified waiver of any rights to return products on the basis of visible defects, shortages, or incorrect shipments. **No returns will be accepted without a Fast-Rite return material authorization number (RMA).** All returned product ordered-in error by Buyer is subject to a 25% restocking charge.

(e) Returns will not be accepted on material that has been altered by sources other than Fast-Rite.

(f) Fast Rite International Inc. is not responsible for plating performance that have secondary operations after the plating process

6. Order Cancellation. (a) Buyer may cancel any order for convenience on the following terms: (i) For standard productions, Buyer may cancel or reschedule a product without penalty if the cancellation is more



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than thirty (30) days from the Confirmed Shipping Date (as specified in Fast-Rite's Order, Acknowledgement or other document), cancellations within 30 days of a Confirmed Shipping Date must be approved in

writing by a Fast-Rite Sales Manager and may be subject to special charges; (ii) For nonstandard parts or custom products Buyer may cancel or reschedule more than ninety (90) days from the Confirmed Shipping Date, except that Buyer shall accept delivery of all such productions which are completed at the time of cancellation or rescheduling. Buyer also shall pay promptly to Seller the costs of settling and paying claims arising out of the termination of work under Fast-Rite's subcontracts or vendors and any accounting, legal, and clerical costs arising out of the cancellation.

- (b) Upon written notice to Seller, any order may be cancelled in whole or in part in accordance with the terms hereof, because of Seller's failure to delivery products by the Confirmed Shipping Date (this failure hereinafter called "Default"). Cancellation by Buyer for Seller's Default, which may entitle Buyer to procurement costs, shall be effective only upon Seller's failure to correct such Default within a reasonable period of time, but not less than thirty (30) days after receipt by Seller of written notice of such Default. Upon cancellation, Buyer, as its sole remedy, may recover from Seller as damages the difference between cost of procurement from another source (cover) and the contract price, less expenses saved as a consequence of Seller's breach. In no event shall these damages exceed ten percent (10% of the price Buyer paid for the products unconditionally (not subject to the cancellation under 6(a) ordered by Buyer which remain unshipped at the time of cancellation.
- (c) Seller shall have the right to cancel any unfilled order without notice to Buyer in the event that Buyer becomes insolvent, adjudicated bankrupt, petitions for consents to any relief under any bankruptcy reorganization statues, or becomes unable to meet its financial obligations in the normal course of business. Any order that can be cancelled or rescheduled by Buyer pursuant to paragraph 6(a) may be cancelled or rescheduled by Seller if notice is given to Buyer.

7. Limited Liability. Neither Seller nor Buyer shall be liable for incidental or consequential damages, including but not limited to, the cost of labor, requalifications, rework charges, delay, lost profits, or loss of goodwill arising out of the sale, installation or use of any Fast-Rite product. If Seller has any liability for breach of contract, breach of any implied condition, warranty or representation, the aggregate liability of Seller to Buyer shall be limited in respect of any occurrence or series of occurrences to the contractual value of the productions or services that are subject of the contract.

8. Patent Indemnity. If any product incorporates a design furnished, or modification requested, by Buyer, Buyer shall indemnify Seller against all expenses, costs and loss relating to any real or alleged infringement of any United States or other patent by reason thereof, and shall defend any such infringement.

9. Assignment and Subcontracting. Fast-Rite shall be entitled at all times to assign its rights under the contract (in whole or in part) or to subcontract any part of the work or services to be provided under the contract as it deems necessary or desirable.

10. Performance Delays. Seller should not be liable for loss, damage or delay resulting from acts of God or causes beyond Seller's reasonable control or caused by strikes or labor difficulties, acts or omissions of any governmental authority or the Buyer, accident, fires, flood, breakdown of essential machinery, priorities or



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embargoes, shortages, delays in transportation or inability to obtain labor services, energy, fuels, or materials from usual sources. In the event of any such delays from such sources, performance will be postponed by such length of time as may be reasonably necessary to compensate for the delay.

11. Confidential Information. Except as required by law, neither party shall use (except for purposes connected with the performance of its obligations hereunder), divulge or communicate to any third party any information of the other it reasonably knows to be confidential.

12. Complete Agreement. THIS COMPLETE AGREEMENT BETWEEN THE SELLER AND BUYER IS CONTAINED HEREIN AND NO ADDITIONAL OR DIFFERENT TERM OR CONDITION STATED BY BUYER SHALL BE BINDING UNLESS AGREED TO BY SELLER IN WRITING. No course of prior dealings and no usage of the trade shall be relevant to supplement or explain any terms used in this agreement. This agreement (a) may be modified only in writing, signed by both the Seller and Buyer, (b) shall be governed by the Illinois Uniform Commercial Code, and (c) may not be cancelled or terminated by Buyer except with Seller's written consent and upon payment of Seller's loss, damages and expenses arising from any cancellation or termination. The failure of the Seller to insist upon strict performance of any of any of the terms and conditions stated herein shall not be construed a continuing waiver of any such term or condition or any of the Seller's rights.

13. Notices. Any notices hereunder shall be deemed to have been given if sent by prepaid first class mail to the party concerned as its last known address. Notices to Seller shall be to Fast-Rite International, Inc., 1739 Paul Avenue, Glendale Heights, IL 60139.

14. Applicable Law and Venue. The products are sold subject to Illinois law. These terms and any dispute or claim relating to these terms or the sale of products ("Claim") shall be governed by and construed under Illinois law, notwithstanding its law of conflicts of law. Any Claim shall be heard, tried, and determined in the Eighteenth Judicial Circuit, DuPage County, Illinois, USA.

15. Changes or Modifications. Except as expressly provided herein, no changes or modifications to, or waiver of, any of these terms and conditions shall be valid or binding on either party unless in writing and signed by an authorized representative of each party. Seller's failure or delay to exercise or enforce any of its rights hereunder shall not constitute or be deemed to be a waiver of such rights or forfeiture of such rights, and Seller may, at its option, from time to time, exercise any of its rights or remedies.

16. Successors. These Terms bind Buyer and its successors and permitted assigns.