

Website Terms of Use

Last modified Oct 15, 2019

Acceptance of the Terms of Use

These terms of use are entered into by and between You and Border States Industries, Inc. ("Company," "we," or "us"). The following terms and conditions, together with any documents expressly incorporated by reference (collectively, "Terms of Use"), govern your access to and use of www.borderstates.com, including any content, functionality and services offered on or through borderstates.com (the "Website"), whether as a guest or a registered user.

Please read these Terms of Use carefully before you start to use the Website. **By using the Website, you accept and agree to be bound and abide by these Terms of Use and our [Privacy Policy](#), incorporated herein by reference.** If you do not agree to these Terms of Use or the Privacy Policy, you should not access or use the Website.

This Website is offered and available to users who are 18 years of age or older. By using this Website, you represent and warrant that you are of legal age to form a binding contract with the Company and meet all of the foregoing eligibility requirements. If you do not meet all of these requirements, you must not access or use the Website.

Changes to the Terms of Use

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when posted, and apply to all access to and use of the Website thereafter. However, any changes to the dispute resolution provisions set forth in Governing Law and Jurisdiction will not apply to any disputes for which the parties have actual notice on or prior to the date the change is posted on the Website.

Your continued use of the Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page each time you access this Website so you are aware of any changes, as they are binding on you.

Accessing the Website and Account Security

We reserve the right to withdraw or amend this Website, and any service or material we provide on the Website, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Website, or the entire Website, to users, including registered users.

You are responsible for:

- Making all arrangements necessary for you to have access to the Website; and
- Ensuring that all persons who access the Website through your internet connection are compliant with these Terms of Use.

To access the Website or some of the resources it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the Website that all the information you provide on the Website is correct, current and complete. You agree that all information you provide to register with this Website or otherwise, including, but not limited to, through the use of any interactive features on the Website, is governed by our [Privacy Policy](#), and you consent to all actions we take with respect to your information consistent with our [Privacy Policy](#).

If you choose, or are provided with, a user name, password or any other piece of information as part of our Website security procedures, you must treat such information as confidential, and you must not disclose it to any other person or

entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Website or portions of it using your user name, password or other security information. You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

We have the right to disable any user name, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use.

Intellectual Property Rights

The Website and its entire contents, features and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof), are owned by the Company, its licensors or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws.

You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on our Website, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.
- You may print one copy of a reasonable number of pages of the Website for your own use and not for further reproduction, publication or distribution.
- If we provide desktop, mobile or other applications for download, you may do so, provided you agree to be bound by our end user license agreement for such applications.

You must not:

- Modify copies of any materials from this site.
- Use any illustrations, photographs, video or audio sequences or any graphics separately from the accompanying text.
- Delete or alter any copyright, trademark or other proprietary rights notices from copies of materials from this site.

If you wish to make any use of material on the Website other than that set out in this section, please address your request to: support@borderstates.com

If you print, copy, modify, download or otherwise use or provide any other person with access to any part of the Website in breach of the Terms of Use, your right to use the Website will cease immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title or interest in or to the Website or any content on the Website is transferred to you, and all rights not expressly granted are reserved by the Company. Any use of the Website not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark and other laws.

Trademarks

The Company name and logo and all related names, logos, product and service names, designs and slogans are trademarks of the Company or its affiliates or licensors. You must not use such marks without the prior written permission of the Company, which may be withheld in Company's sole discretion. All other names, logos, product and service names, designs and slogans on this Website are the trademarks of their respective owners.

Prohibited Uses

You may use the Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Website:

- In any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise.
- To send, knowingly receive, upload, download, use or re-use any material which does not comply with the [Content Standards](#) set out in these Terms of Use.
- To transmit, or procure the sending of, any advertising or promotional material without our prior written consent, including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate the Company, a Company employee, another user or any other person or entity (including, without limitation, by using e-mail addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website, or which, as determined by us, may harm the Company or users of the Website, or expose them to liability.

Additionally, you agree not to:

- Use the Website in any manner that could disable, overburden, damage, or impair the Website or interfere with any other party's use of the Website, including their ability to engage in real time activities through the Website.
- Use any robot, spider or other automatic device, process or means to access the Website for any purpose, including monitoring or copying any of the material on the Website.
- Use any manual process to monitor or copy any of the material on the Website, or for any other purpose not expressly authorized in these Terms of Use, without our prior written consent.
- Use any device, software or routine that interferes with the proper working of the Website.
- Introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful to the Website.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer or database connected to the Website.
- Attack the Website via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Website.

User Contributions

The Website may contain message boards, chat rooms, personal web pages or profiles, forums, bulletin boards, and other interactive features (collectively, "Interactive Services") that allow users to post, submit, publish, display or transmit to other users or other persons (hereinafter, "post") content or materials (collectively, "User Contributions") on or through the Website.

All User Contributions must comply with the Content Standards set out in these Terms of Use.

Any User Contribution you post to the Website will be considered non-confidential and non-proprietary. By providing any User Contribution on the Website, you grant us and our affiliates and service providers, and each of their and our respective licensees, successors and assigns the right to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any such material for any purpose.

You represent and warrant that:

- You own or control all rights in and to the User Contributions and have the right to grant the license granted above to us and our affiliates and service providers, and each of their and our respective licensees, successors and assigns.
- All of your User Contributions do and will comply with these Terms of Use.

You understand and acknowledge that you are responsible for any User Contributions you submit or contribute, and you, not the Company, have full responsibility for such content, including its legality, reliability, accuracy and appropriateness.

We are not responsible, or liable to any third party, for the content or accuracy of any User Contributions posted by you or any other user of the Website.

Monitoring and Enforcement; Termination

We have the right to:

- Remove or refuse to post any User Contributions for any or no reason in our sole discretion.
- Take any action with respect to any User Contribution that we deem necessary or appropriate in our sole discretion, including if we believe that such User Contribution violates the Terms of Use, including the Content Standards, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Website or the public or could create liability for the Company.
- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Website.
- Terminate or suspend your access to all or part of the Website for any or no reason, including without limitation, any violation of these Terms of Use.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Website. YOU WAIVE AND HOLD HARMLESS THE COMPANY AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

However, we cannot review all material before it is posted on the Website and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

Content Standards

These content standards apply to any and all User Contributions and use of Interactive Services. User Contributions must in their entirety comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, User Contributions must not:

- Contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable.
- Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
- Infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person.
- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these [Terms of Use](#) and our [Privacy Policy](#)
- Be likely to deceive any person.
- Promote any illegal activity, or advocate, promote or assist any unlawful act.
- Cause annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any other

person.

- Impersonate any person, or misrepresent your identity or affiliation with any person or organization.
- Involve commercial activities or sales, such as contests, sweepstakes and other sales promotions, barter or advertising.
- Give the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case.

Copyright Infringement

If you believe that any User Contributions violate your copyright, please send us a notice of copyright infringement to support@borderstates.com. It is the policy of the Company to terminate the user accounts of repeat infringers.

Reliance on Information Posted

The information presented on or through the Website is made available solely for general information purposes. We do not warrant the accuracy, completeness or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Website, or by anyone who may be informed of any of its contents.

This Website includes content provided by third parties, including materials provided by other users, bloggers and third-party licensors, syndicators, aggregators and/or reporting services. All statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by the Company, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of the Company. We are not responsible or liable to you or any third party for the content or accuracy of any materials provided by any third parties.

Changes to the Website

We may update the content on this Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and we are under no obligation to update such material.

Information About You and Your Visits to the Website

All information we collect on this Website is subject to our [Privacy Policy](#). By using the Website, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

Online Purchases and Other Terms and Conditions

All purchases through the Website or other transactions for the sale of goods, services, or information formed through the Website, or as a result of visits made by you are governed by our [Terms and Conditions of Sale](#), which are hereby incorporated into these Terms of Use.

Additional terms and conditions may also apply to specific portions, services or features of the Website. All such additional terms and conditions are hereby incorporated by this reference into these Terms of Use.

Linking to the Website and Social Media Features

You may link to the Website's homepage, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement by Company without our express written consent.

This Website may provide certain social media features that enable you to:

- Link from your own or certain third-party websites to certain content on this Website.
- Send e-mails or other communications with certain content, or links to certain content, on this Website.

- Cause limited portions of content on this Website to be displayed or appear to be displayed on your own or certain third-party websites.

You may use these features solely as they are provided by us, solely with respect to the content they are displayed with, and otherwise in accordance with any additional terms and conditions we provide with respect to such features. Subject to the foregoing, you must not:

- Establish a link from any website that is not owned by you.
- Cause the Website or portions of it to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site.
- Link to any part of the Website other than the homepage.
- Otherwise take any action with respect to the materials on this Website that is inconsistent with any other provision of these Terms of Use.

The website from which you are linking, or on which you make certain content accessible, must comply in all respects with the Content Standards set out in these Terms of Use.

You agree to cooperate with us in causing any unauthorized framing or linking immediately to cease. We reserve the right to withdraw linking permission without notice.

We may disable all or any social media features and any links at any time without notice in our discretion.

Links from the Website

If the Website contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those websites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to this Website, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

Geographic Restrictions

The owner of the Website is based in the State of North Dakota in the United States. We provide this Website for use only by persons located in the United States. We make no claims that the Website or any of its content is accessible or appropriate outside of the United States. Access to the Website may not be legal by certain persons or in certain countries. If you access the Website from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

Some of our vendors and suppliers may have geographical restrictions as well. Please reach out to your local branch contact for specific details.

Disclaimer of Warranties

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our Website for any reconstruction of any lost data. WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

YOUR USE OF THE WEBSITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE

WEBSITE IS AT YOUR OWN RISK. THE WEBSITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ANY PERSON ASSOCIATED WITH THE COMPANY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THE WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER THE COMPANY NOR ANYONE ASSOCIATED WITH THE COMPANY REPRESENTS OR WARRANTS THAT THE WEBSITE, ITS CONTENT OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR WEBSITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Limitation on Liability

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL THE COMPANY, ITS AFFILIATES OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SUCH OTHER WEBSITES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.

YOU ACKNOWLEDGE THAT COMPANY IS UNABLE TO GUARANTEE ABSOLUTE CERTAINTY OF ALL DATA, INCLUDING PERSONALLY IDENTIFIABLE INFORMATION ("PII"), AND THAT COMPANY HAS NO LIABILITY TO YOU FOR ANY UNAUTHORIZED ACCESS OR USE OF SUCH DATA OR PII BY A THIRD PARTY, OR CORRUPTION, DELETION, DESTRUCTION OR LOSS OF ANY SUCH DATA OR PII UNLESS COMPANY'S SECURITY PRACTICES ARE BELOW GENERALLY ACCEPTED INDUSTRY STANDARDS.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Indemnification

You agree to defend, indemnify and hold harmless the Company, its affiliates, licensors and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns ("Indemnitees") from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the Website, including, but not limited to, your User Contributions, any use of the Website's content, services and products other than as expressly authorized in these Terms of Use, use by a third party to whom you disclosed your login or password, or your use of any information obtained from the Website.

Governing Law and Jurisdiction

All matters relating to the Website and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of North Dakota without giving effect to any choice or conflict of law provision or rule (whether of the State of North Dakota or any other jurisdiction).

Any legal suit, action or proceeding arising out of, or related to, these Terms of Use or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of North Dakota, in each case located in the City of Fargo and County of Cass, although we retain the right to bring any suit, action or proceeding against you for breach of these Terms of Use in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

Limitation on Time to File Claims

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE WEBSITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

Waiver and Severability

No waiver by the Company of any term or condition set forth in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of the Company to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

Entire Agreement

The Terms of Use and our [Privacy Policy](#) constitute the sole and entire agreement between you and Company with respect to the Website and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Website.

Your Comments and Concerns

This Website is owned and operated by Border States Industries, Inc., 2400 38th St S, Fargo, North Dakota 58104. All other feedback, comments, requests for technical support and other communications relating to the Website should be directed to support@borderstates.com.

1. GENERAL

BORDER STATES INDUSTRIES, INC. TERMS AND CONDITIONS OF SALE

These standard terms and conditions of sale (along with any directly associated Border States Industries, Inc. and related entities and affiliates written specification or quotation) exclusively will govern the sale by Border States Industries, Inc. ("Seller") of all goods and services to Buyer (including, without limitation, hardware, firmware and software products, training, programming, maintenance, engineering, parts and repair services, collectively the "Products"). Buyer's order or statement of intent to purchase Products, or any direction to proceed with procurement or shipment of Products, or any payment for Products constitute Buyer's specific and express

agreement to these terms and conditions. Neither party will, under any circumstances, agree or be bound by any provisions, conditions, or agreements which are inconsistent with, contrary to, additional to, in lieu of, or which modify in any manner, the following terms and conditions unless an authorized officer of such party agrees to such provisions, conditions, or agreements in writing.

2. PAYMENT TERMS

Buyer agrees to pay for all Products by the due date according to the terms of sale stated on each invoice or otherwise agreed to in writing with Seller. Payment terms shall be Net 30, unless other terms are stated. All accounts are due and payable at the address shown on Seller's invoice. Credit availability shall be at the sole discretion of Seller and may be terminated or changed at any time by Seller. Seller specifically reserves the right to require payment in cash for any shipment or delivery should Seller so determine in its sole discretion. No payment by offset is permitted unless approved by Seller. Buyer agrees to pay late payment fees on all undisputed past due accounts at a rate of 1 ½% each month on the past due balance, but not to exceed the highest rate lawfully allowed. Acceptance of any payment from Buyer without the accrued late fee included shall not be deemed to be a waiver of such accrued late fees. Charge backs will not be honored without prior written authorization. Any lien rights or legal remedies for non-payment asserted by Seller shall be governed by the laws of the state where the materials are delivered.

3. DELIVERY

1. All sales are made F.O.B. point of shipment, unless otherwise mutually agreed upon by Buyer and Seller. Title and risk of loss shall pass to Buyer at point of shipment. Each shipment or delivery shall be considered a separate and independent transaction.
2. Special routing or special transportation methods requested by Buyer may increase transportation costs. Such increases will be billed to Buyer. Items quoted with transportation charges prepaid and allowed, are based on shipment that falls within the manufacturer's transportation allowance policy, usually one shipment. Any change in quantities or destination, or special release, may cause a price increase to Buyer.
3. Acknowledged shipping dates are approximate only and based, in part, on prompt receipt of all necessary information from Buyer. Delivery dates are not guaranteed and Seller shall not be liable to Buyer or the ultimate user for any claims arising from delay in shipment or delivery, whether or not resulting from causes beyond Seller's control, including, without limitation, fire, labor difficulties or delays in Seller's usual sources of supply. Shipping dates are subject to delays resulting from preference ratings or priority shipments ordered or requested by the United States government or any department, commission or agent thereof, and Seller shall not be liable for any such delays.
4. All claims with regard to errors or defects in shipment must be made in writing within ten (10) days of delivery or such claim will be barred. Claims for breakage, damage, or loss in transit must be made to the transportation company by the consignee.

4. WARRANTY

Seller warrants good title to the Products. Seller, being solely a dealer-distributor and not a manufacturer, gives no additional warranties whatsoever and expressly **DISCLAIMS ANY WARRANTY BY IT, EXPRESS OR IMPLIED, STATUTORY, BY OPERATION OF LAW OR OTHERWISE, INCLUDING**

MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE and the only additional warranties on any item purchased from Seller is the express warranty, if any, given by the manufacturer of the item. Seller warrants that all services will be performed in a professional manner consistent with generally accepted industry standards.

5. INDEMNIFICATION

Buyer agrees to defend, indemnify and hold Seller and its officers, directors, shareholders, agents, servants, employees and insurers harmless from any and all liabilities, claims and expenses for bodily injury, death and damage to property that arise from Buyer's negligence or willful misconduct, except to the extent the liabilities, claims or expenses arise from Seller's negligence or willful misconduct. Seller agrees to notify Buyer of any potential claims and assist Buyer in the defense of those claims.

Seller agrees to defend, indemnify and hold Buyer and its officers, directors, shareholders, agents, servants, employees and insurers harmless from any and all liabilities, claims and expenses for bodily injury, death and damage to property that arise from Seller's negligence or willful misconduct. Buyer agrees to notify Seller of any potential claims, and will assist Seller in the defense of those claims.

6. LIMIT OF LIABILITY

In no event will Seller be liable for liquidated, incidental, indirect, or consequential damages of any kind. Except for claims and liabilities for bodily injury, death, and damage to property caused by Seller's gross negligence or Seller's willful misconduct, Seller's maximum cumulative liability relative to all other claims and liabilities, including that with respect to direct damages and obligations under any indemnity, whether or not insured, will not exceed the cost of the Products giving rise to the claim or liability. Any action against Seller must be brought within twelve (12) months after the cause of action accrues. The disclaimers and limitations of liability set forth in these standard terms and conditions shall apply regardless of any other contrary provision set forth and regardless of the form of action, whether in contract, tort, or otherwise. Each provision in these standard terms and conditions which provides for a limitation of liability, disclaimer of warranty or condition or exclusion of damages is severable and independent of any other provision and is to be enforced as such. Seller's sole obligation to Buyer is to use due diligence in an effort to cause the manufacturer of any item which is defective to repair or replace such item.

7. PRICES

Prices and other information shown in any Seller publication (including product catalogs, brochures and web sites) are subject to change without notice and confirmation by specific quotation. Such publications are not offers to sell and are maintained only as a source of general information. Buyer will pay or reimburse Seller for all sales, use, excise or similar taxes. Products comprised of time and material services will be provided in accordance with Seller's published service rates, including applicable overtime and travel expenses in effect as of the date such services are provided, unless otherwise confirmed by Seller's written quotation or order acknowledgment. Billable service time includes travel time to and from the job site and all time Seller's representatives are available for work and waiting (whether on or off the job site) to perform the services. Due to the rising cost of rare earth phosphors, all fluorescent lamp pricing will be subject to the price in effect at time of shipment. Unless otherwise noted, prices do not include any present or future sales, use, excise, value added, or similar tax. Where applicable, all such taxes shall be paid by the Buyer.

8. CHANGES

Buyer requested order changes, including those affecting the identity, scope and delivery of the Products, must be documented in writing and are subject to Seller's prior approval and adjustments in price, scheduling and other affected terms and conditions. Seller reserves the right to reject any change.

9. RETURNS

All returns of Products will be subject to Seller's prior approval and will be subject to Seller's return policies in effect at the time, including applicable restocking charges and other conditions of return. Shipping containers must be clearly marked in accordance with Seller's instructions and shipped freight prepaid by Buyer. The invoice number must be furnished for all materials returned to ensure proper credit. Seasonal items may be subject to higher restocking charges.

10. ORDER CANCELLATION

An order may be canceled by Buyer prior to the shipment only by written notice and upon payment to Seller of reasonable cancellation and restocking charges, including reimbursement for direct costs, plus allowances for disruption. Cancellation charges associated with orders for custom Products or Products specifically manufactured to Buyer's specification may equal the actual selling price of the Products. No termination for cause by Buyer will be effective unless and until Seller has failed to correct such alleged cause within twenty-five (25) days after receipt of the Buyer's written notice specifying such cause.

11. FORCE MAJEURE

Seller shall not be liable for any loss, damage, or delay arising out of its failure to perform hereunder due to causes beyond its reasonable control, including, without limitation, acts of God or the Buyer, acts of civil or military authority, terrorist threats or attacks, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, delays in transportation, or transportation embargoes. In the event of any such delay, Seller's performance date(s) will be extended for that length of time as may be reasonably necessary to compensate for the delay.

12. CERTIFICATION OF COMPLIANCE

It is the policy of our company to provide equal opportunity to all employees and applicants and to prohibit any discrimination because of race, color, religion, sex, national origin, age, marital status, disability or being a protected veteran. Employees will be treated on the basis of their job-related qualifications, ability and performance. It is also our policy that sexual harassment or any other kind of harassment will not be tolerated. The foundation of these policies is Seller's commitment to treat everyone fairly and equally and to have a bias-free work environment.

Any statement as to product country of origin, Export Control Classification Number, or compliance with applicable law (including, without limitation, that Products are lead-free or RoHS/REACH compliant or that Products comply with Buy American/Buy America) is as provided to Seller by its suppliers, and Seller does not warrant its accuracy and will not be liable for any error with regard to same. Buyer uses and re-uses such information at its own risk.

13. MISCELLANEOUS

1. Buyer agrees that in the event legal action is necessary to enforce the terms and conditions set forth herein, and such legal action results in a judgment against Buyer, Buyer shall pay the reasonable costs incurred by Seller, including, without limitation, attorney's fees and costs of experts.
2. All rights and remedies of Seller hereunder are in addition to Seller's other rights and remedies and are cumulative and not alternative

13.3 The validity, performance, construction, and effect of these terms and conditions shall be governed by North Dakota law. Each party knowingly, voluntarily, irrevocably, and unconditionally waives any and all right to trial by jury in any action or proceeding arising out of or relating to this Agreement or the transactions contemplated

hereby.

1. Lien Rights – governed by the state law where the project is located.
2. Buyer agrees that it has selected the Products based upon its own judgment and disclaims any reliance upon statements or representations made by Seller. Any statement or advice (including but not limited to advice regarding the quantity of goods necessary for a particular job, or the suitability of a particular product for a particular use) is provided solely as a courtesy to Buyer and is not guaranteed. No such statement or advice shall subject Seller to any liability whether based on contract, warranty, tort (including negligence), or other grounds.