



## SALES AND INVOICE TERMS & CONDITIONS

These terms and conditions govern the sale of products and materials (the "Products") by RAND TECHNOLOGY, INC. ("SELLER") to the BUYER listed hereon. These terms and conditions take precedence and prevail over BUYER's additional or different terms and conditions, to which notice of objection is hereby given. Acceptance by BUYER is limited to these terms and conditions. Neither SELLER's commencement of performance nor delivery shall be deemed or constituted as acceptance of BUYER's additional or different terms and conditions.

1. **Prices.** The prices of the Products are those specified on the front of this Invoice.
2. **Taxes.** Unless otherwise agreed to in writing by SELLER, all prices quoted are exclusive of transportation and insurance costs, and all taxes, including federal, state and local use, sales, property (ad valorem) and similar taxes. BUYER agrees to pay these taxes (except taxes upon SELLER's net income) unless BUYER has provided SELLER with an exemption resale certificate in the appropriate form for the jurisdiction of BUYER's place of business and any jurisdiction to which the Products are to be directly shipped hereunder, or unless the sale is otherwise exempt from these taxes. BUYER agrees to indemnify and hold harmless SELLER for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation costs and taxes shall appear as separate items on SELLER's Invoice.
3. **Payment.**
  - a Prices stated on this Invoice include all applicable discounts. Payment shall be made according to the terms specified on the front of this Invoice. SELLER may invoice each shipment separately and each shipment shall be considered a separate and individual contract.
  - b All delinquent amounts shall be subject to a late charge from the due date to the date of payment, payable at the lesser of one and one-half percent (1½%) per month or the highest rate then permitted under applicable law.
  - c The carrier will be selected by SELLER in the absence of specific instructions by BUYER. In no event shall SELLER be liable for any **carrier-caused** delay in delivery, nor shall the carrier be deemed an agent of SELLER.
  - d SELLER reserves the right to establish and/or change credit and payment terms extended to BUYER when, in SELLER's sole opinion, BUYER's financial condition or previous payment record warrants that action. Further, on delinquent account, SELLER shall not be obligated to continue performance under any agreement with BUYER.
4. **Shipments.** All shipments will be made FCA SELLER's shipping dock. Delivery will be deemed complete and risk of loss or damage to the Products will pass to BUYER upon delivery to the carrier. SELLER recommends that BUYER procure insurance to cover BUYER's risk of loss.
5. **Acceptance.** The Products shall be deemed accepted by BUYER unless written notice of shortages or other defects in shipment is received by SELLER within seven (7) days of the date BUYER receives the Products, with a copy of the notice sent to the carrier. **The foregoing shall not limit the warranty obligations below.**
6. **Warranty.**
  - a SELLER warrants, for a period of thirty (30) days after shipment of Products hereunder, that such Products conform to the manufacturer's part number and similar specifications set forth in BUYER's purchase order. BUYER shall have the right to inspect the Products and related materials at the time and place of delivery. Within **thirty (30)** days after delivery, BUYER must give notice to SELLER of any claims for damages on account of the Products' failure to conform to the foregoing warranty. BUYER must specify in detail the basis of such claim. The failure of BUYER to comply with these conditions shall constitute irrevocable acceptance of the Products by BUYER. **THE FOREGOING WARRANTY IS THE SOLE WARRANTY, EXPRESS OR IMPLIED, GIVEN BY SELLER IN CONNECTION WITH THE PRODUCTS, AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.**
  - b SELLER's exclusive obligations with respect to a non-conforming Product shall be, at SELLER's option, to repair or replace the Product, if it is determined to be defective, or to refund or credit to BUYER the purchase price paid for the Product. **NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE FOREGOING IS BUYER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY BY SELLER WITH RESPECT TO THE PRODUCT. In the event SELLER obtains test reports from an independent test laboratory that any returned parts are not defective – after the parts were claimed to be defective by BUYER – SELLER is authorized to re-ship parts back to BUYER.**
  - c In no event shall SELLER be liable for any special, consequential or incidental damages of any nature, anticipated or lost profits, loss of time, or other losses incurred by BUYER or any third party in connection with the Products. SELLER's liability on any claim of any kind relating to the Products shall in no event exceed the price allocable to the Products which give rise to any such claim.
7. **Restocking Fee.** Any return of Products by BUYER or cancellation of an existing order prior to the ship date where SELLER has already procured the Products must first be authorized by SELLER. SELLER reserves the right to assess a minimum 20% restocking fee on any returned Products or cancelled orders. A higher fee may be charged at the sole discretion of the SELLER.
8. **Export Control.** Some or all of the Products supplied by SELLER may be subject to export control regulations. Such goods may not be imported or exported by BUYER without prior approval of the relevant authorities. It is the responsibility of BUYER to obtain such approval. Under no circumstances will SELLER be liable for any loss or damage incurred by BUYER as a result of BUYER's contravention of any export control regulation. Rand confirms these goods will not be re-exported or transshipped to an end-user and/or end-use that is prohibited by the U.S. government to include embargoed/sanctioned countries (Cuba, Iran, Syria, Sudan, North Korea, and Russia Federation). Rand and "End User" agree to comply with all applicable laws and regulations regarding export-controlled items defined in the International Traffic & Arms Regulations (22 CFR 120-130) and Export Administration Regulations (15 CFR 730-774). We will not export, re-export, transfer, divert or disclose any products or proprietary information to any destination restricted or prohibited by Article 12g ff. of EU Regulation 833/2014 and/or U.S. export law without the appropriate license or approval from the U.S. government.
9. **Force Majeure.** Except for the payment of money, neither party shall be held responsible for any delay or failure in performance of any part of this invoice or these terms and conditions to the extent that delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control ("force majeure conditions"). If any force majeure condition occurs, the party delayed or unable to perform ("Delayed Party") shall give immediate notice to the other party ("Affected Party"), and the Affected Party, upon giving prompt notice to the Delayed Party, shall be excused from performance hereunder for the duration of the force majeure condition, provided, however, that the Affected Party shall take all reasonable steps and cooperate with the Delayed Party to avoid or remove the cause of nonperformance and shall promptly resume performance hereunder when the cause is removed; and provided further that it the Delayed Party cannot within sixty (60) days remove the cause of nonperformance, the Affected Party may terminate its obligations hereunder.
10. **Assignment and Delegation.** The rights and obligations of the parties under these terms and conditions may not be assigned or delegated by either party without the written, signed consent of the other.
11. **Governing Law.** The construction, interpretation and performance of this invoice, these terms and conditions and all transactions hereunder shall be governed by the laws of the United States of America and the State of California.
12. **Severability.** If any of these terms or conditions are found to be illegal or unconscionable by a court of competent jurisdiction, the remaining terms and conditions shall stay in full force and effect.
13. **Non-Waiver.** No course of dealing or failure of either party to strictly enforce any term, right or condition of these terms and conditions shall be construed as a waiver of that term, right or condition. Waiver by SELLER of a breach of any of these terms and conditions shall not be construed as a waiver of any other breach.
14. **Choice of Forum.** The parties hereto agree that any suits, actions or proceedings arising out of this invoice or these terms and conditions that may be instituted by any party hereto shall be instituted only in the state or federal courts in the County of Orange, State of California, and the parties hereto do hereby consent to the jurisdiction of those courts and waive any objection which they may now or hereafter have to venue of those suits, actions or proceedings.
15. **Attorneys' Fees.** If any action or legal proceeding is commenced to enforce the terms and conditions hereof, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.
16. **Notices.** Any notice required or permitted to be given by either party hereto to the other shall be personally delivered, or sent certified or registered mail to the address stated on the Invoice and shall be deemed given when deposited in the United States mail with postage prepaid.
17. **Captions.** The captions and headings in this Invoice are for convenience and reference purposes only and shall not be construed to define or limit any of the terms or provisions herein.
18. **Entire Agreement.** This document shall constitute the entire agreement and understanding between the parties with respect to the subject matter hereof and shall not be modified, terminated or rescinded, except by a writing signed by SELLER and BUYER. The provisions of this document supersede all prior oral and written quotations, communications, agreements, and understandings of the parties with respect to the subject matter hereof.