

STATEK CORPORATION

STANDARD TERMS AND CONDITIONS OF SALE

- 1. ACCEPTANCE AND BINDING EFFECT.** THE TERMS AND CONDITIONS OF SALE CONTAINED HEREIN SHALL BE APPLICABLE TO AND GOVERN THE SALE AND SHIPMENT OF ALL MERCHANDISE. STATEK ACCEPTS PURCHASE ORDERS CONDITIONED UPON BUYER'S ASSENT TO THESE TERMS. SUCH ASSENT SHALL BE CONCLUSIVELY PRESUMED UNLESS BUYER, WITHIN SEVEN (7) DAYS OF RECEIPT OF THESE TERMS, CANCELS HIS ORDER IN WRITING OR COMMUNICATES TO STATEK, BUYER'S UNWILLINGNESS TO ACCEPT ANY SPECIFIC TERM OR CONDITION HEREOF IN EITHER OF SUCH EVENTS, STATEK SHALL NOT BE DEEMED TO HAVE ACCEPTED BUYER'S PURCHASE ORDER UNTIL ANY CHANGES IN THE TERMS AND CONDITIONS HEREOF HAVE BEEN MUTUALLY AGREED UPON AND REDUCED TO WRITING AND SIGNED BY AUTHORIZED REPRESENTATIVES OF STATEK AND BUYER. THE TERMS AND CONDITIONS SET FORTH HEREIN, AS MODIFIED BY ANY SUCH WRITTEN AGREEMENT, SHALL SUPERSEDE ALL INCONSISTENT TERMS AND CONDITIONS WHICH MAY BE CONTAINED IN ANY PURCHASE ORDER OR IN ANY OTHER PURCHASE DOCUMENTS SUBMITTED TO STATEK BY BUYER.
- 2. PRICES.** Prices are F.O.B. Statek's plant, Orange, California, and do not include any manufacturer's excise tax, sales tax or other tax or duty of any nature whatsoever applicable to the sale or delivery of the merchandise ordered. Any transportation and insurance applicable to the merchandise shipped to Buyer shall be paid for by Buyer or repaid to Statek if advanced by it. In the event Statek is required to pay any foreign tax or duty as a condition of delivering ordered merchandise to Buyer, Buyer shall provide Statek at the time the order is submitted with an exemption certificate or other similar document acceptable to taxing or customs authorities or shall repay Statek for any such tax or duty paid by Statek, promptly upon being invoiced therefor.
- 3. DELIVERY.** Unless otherwise specified in the purchase order, Statek shall have the right to deliver all of the goods at one time or in portions from time to time. Title to all items shall remain within Statek for security purposes as conditional vendor until the purchase price thereof has been paid in full. Statek shall have the right, in addition to all others it may possess, at any time, for credit reasons or because of Buyer's default or defaults, to withhold shipments, in whole or in part, and to recall goods in transit, retake same, and repossess all goods which may be stored with Statek for Buyer's account, without the necessity of taking any other proceedings, and Buyer consents that all the merchandise so recalled, retaken, or repossessed shall become the absolute property of Statek, provided that Buyer is given full credit therefor. The foregoing shall not be construed as limiting, in any manner, any of the rights or remedies available to Statek because of any default of Buyer under the Uniform Commercial Code as in force and effect in the State of California.

Shipping dates are approximate and unless otherwise specified by Buyer, shipment will be by means deemed most appropriate by Statek. Irrespective of who selects the carrier and who initially pays the cost of transportation, risk of loss or damage to the merchandise passes to Buyer upon delivery to the carrier.

Products will be packaged in accordance with standard commercial practices for domestic shipment unless otherwise specified by Buyer. All claims for loss or damage must be made by Buyer to the carrier, but Statek will assist insofar as practical in securing satisfactory adjustment of such claim.

- 4. PARTIES EXCUSED WHERE PERFORMANCE IMPOSSIBLE: CANCELLATION.** Statek shall not be responsible for any failure to make delivery or delay in the delivery of all or any part of the merchandise purchased by Buyer, due to (a) government statute, ordinance or regulations, (b) strike or other labor trouble, (c) damage to or destruction in whole or part of the merchandise or Statek's manufacturing plant, (d) fire, flood, earthquake, riot, war or other casualty or act of God, (e) lack of, or inability to obtain, raw materials, fuel or supplies, or (f) any other cause, contingency or circumstance not subject to Statek's control which prevents or hinders the manufacture or delivery of the merchandise. In the event of a delay in delivery of not more than thirty days resulting from any such cause, the date of delivery shall, at the request of Statek, be deferred for a period equal to that of the delay. If the delay in delivery shall be more than thirty days, Buyer shall have the option to cancel the purchase order on written notice to Statek promptly after the expiration of such thirty-day period.

Buyer shall have the right to cancel any purchase order upon the occurrence of any of the events specified in the preceding paragraph, if such event affects Buyer's premises provided that Buyer shall notify Statek of its intention to cancel the order promptly upon the occurrence of the event. Upon such cancellation, Buyer shall reimburse Statek for expenses incurred by Statek with respect to such merchandise prior to notification of cancellation, which, in the event that the merchandise was or is in the process of being manufactured to Buyer's own specifications, shall include the cost of producing finished goods and work in process, as well as the costs of material procurement, and reasonable overhead and general and administrative expenses applicable thereto. Buyer may not cancel any purchase order for any other reason without Statek's prior written consent.

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5. **INSPECTION/ACCEPTANCE.** Buyer shall inspect the merchandise promptly upon receipt. Failure to so inspect within thirty days after receipt shall constitute a waiver of Buyer's right to inspection and shall constitute acceptance of the merchandise. Buyer shall have the opportunity, at the time and place of inspection, to run adequate tests to determine whether the merchandise tendered conforms to specifications. Use of a portion of the merchandise for the purpose of testing shall not constitute acceptance. Notice of any defects, damages, failure to meet specifications or of any shortage in merchandise delivered to Buyer by Statek must be given in writing to Statek within five days of inspection by Buyer. Failure to give such notice within the prescribed period shall constitute acceptance of the merchandise. If merchandise which does not fully conform to the specifications of the purchase order as accepted by Statek, is rejected by Buyer, Statek shall have the right to cure any such defect by shipping conforming merchandise to Buyer within a reasonable time.
6. **WARRANTY.** Statek warrants that all merchandise manufactured by it is free from defects in material and workmanship. Any claim of breach of said warranty shall be made within one year of receipt of merchandise by Buyer. Any merchandise claimed to be defective must be returned to Statek, transportation charges prepaid, but only after notice to Statek prior to the return. Upon such return, Statek's sole obligation shall be to repair or replace (at Statek's option and expense) all defective merchandise and return the new or repaired merchandise to Buyer at Statek's expense, and refund to buyer the cost of transportation of any defective merchandise returned to Statek. Statek warranty shall not be applicable to any merchandise which has been altered or repaired by anyone other than an authorized representative of Statek or to any merchandise which has not been properly installed or has been subject to misuse or accident.
7. **DISCLAIMER OF WARRANTY.** THE ABOVE WARRANTY IS IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. BUYER IS RESPONSIBLE FOR DETERMINING THE SUITABILITY OF STATEK'S PRODUCTS IN HIS DEVICES, ASSEMBLIES OR SYSTEMS AND STATEK SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES REGARDLESS OF WHETHER STATEK'S PRODUCTS ARE USED SEPARATELY OR IN COMBINATION WITH OTHER COMPONENTS.
8. **PROTECTION OF PATENTS AND TRADE SECRETS.** Statek shall indemnify Buyer and its customer against any loss, damage or liability, including costs and expenses, arising out of any actual or alleged infringement of any patent, copyright or trademark resulting from the use or sale by Buyer or Buyer's customers of merchandise manufactured by Statek, except those products specially manufactured according to Buyer's design specifications or other requirements. However, the aforesaid indemnity shall be null and void unless Buyer notifies Statek in writing of any claim of infringement within thirty days of knowledge thereof and permits Statek to participate in and direct the defense thereof. If any merchandise shall be specially manufactured by Statek according to Buyer's design specification or other requirements, Buyer shall indemnify Statek against any loss, damage or liability, including any costs and expenses, arising out of any actual or alleged infringement of any patent, copyright or trademark resulting from Statek's manufacture or sale to Buyer of such merchandise.
9. **TERMS OF PAYMENT.** Payment for merchandise shipped shall be due within thirty days from shipment unless otherwise specified in writing by Statek. If at any time, in Statek's judgment, the financial condition of buyer does not justify continuation of production or shipment on the terms of payment originally specified, Statek may require full or partial payment in advance or satisfactory security for payment.
10. **COMPLIANCE WITH APPLICABLE LAW.** Statek warrants and certifies that in the manufacture and shipping of merchandise, Statek will comply with all applicable rules, statutes, regulations and orders of the United States and any state or political subdivision thereof including the laws and regulations pertaining to labor, wages, hours and other conditions of employment, and applicable price ceilings, if any.
11. **MISCELLANEOUS.** Statek reserves the right to improve, change or discontinue any product without incurring any liability for duplicating products sold under prior orders. The terms and conditions provided for herein shall be governed by and construed in accordance with the laws of the State of California.

Any action for breach of any purchase order as modified by these terms and conditions must be commenced within one year after delivery of the merchandise ordered.

In the event it becomes necessary to bring legal proceedings to enforce or carry out any of the provisions of the agreement between Statek and Buyer, the prevailing party shall recover costs of enforcement including court costs and reasonable attorney fees.