

**1. DEFINITIONS.**

"Seller" shall mean Alps Controls LLC.

"Buyer" shall be a user of an ecommerce site operated by Seller.

**2. ACCEPTANCE.**

Acceptance of any order placed by Buyer is subject to credit approval by Seller, acceptance of the order by Seller and, when applicable, Seller's Vendor (i.e. manufacturers, vendors, or other third parties that provide goods to Seller for resale to Buyer). If Seller, in its sole discretion, determines that Buyer's ability to pay or credit becomes unsatisfactory or it has reasonable grounds for insecurity, Seller reserves the right, upon notice to Buyer, to demand adequate assurance of due performance from Buyer and/or terminate this agreement with no liability to Seller. SELLER ACCEPTS WITHOUT RESERVATION, ALTERATION, OR AMENDMENT THESE TERMS AND CONDITIONS BY DOING ANY ONE OR MORE OF THE FOLLOWING: (A) REQUESTING A QUOTE FROM SELLER, (B) PRESENTING AN ORDER TO SELLER, (C) MAKING PAYMENT FOR AN ORDER TO SELLER, (D) ACCEPTING DELIVERY OF GOODS ORDERED FROM SELLER, (E) ACCESSING SELLER'S WEBSITE, OR (F) FAILING TO OBJECT TO THESE TERMS AND CONDITIONS WITHIN 5 BUSINESS DAYS AFTER BEING PROVIDED WITH A COPY OF THEM, ELECTRONICALLY OR IN WRITING. BUYER CONFIRMS THAT THESE TERMS & CONDITIONS SHALL EXCLUSIVELY GOVERN ALL PURCHASES OF GOODS, MATERIALS, AND/OR SERVICES PROVIDED TO BUYER BY SELLER (COLLECTIVELY "GOODS") BY BUYER FROM SELLER. SELLER OBJECTS TO AND REJECTS ANY CHANGES OR ADDITIONAL OR DIFFERENT TERMS (CONTAINED IN A PURCHASE ORDER ACCEPTED BY SELLER, OR OTHERWISE) AND NO SUCH TERMS WILL CHANGE THESE TERMS & CONDITIONS UNLESS ACKNOWLEDGED IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER. NO SELLER EMPLOYEE OR AGENT HAS THE AUTHORITY TO MODIFY THESE TERMS & CONDITIONS VERBALLY. SELLER OBJECTS TO AND REJECTS ANY TERMS BETWEEN BUYER AND ANY OTHER PARTY, AND NO SUCH TERMS, INCLUDING BUT NOT LIMITED TO ANY GOVERNMENT REGULATIONS OR "FLOWDOWN" TERMS, SHALL BE A PART OF OR INCORPORATED INTO ANY ORDER FROM BUYER TO SELLER, UNLESS AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF SELLER.

**3. PRICES AND TAXES.**

Buyer agrees to pay the prices quoted by Seller, along with any applicable shipping, handling, taxes, duties, and other changes to supplier pricing, tariffs, raw material costs, currency fluctuations, or other market conditions. Unless expressly stated in writing within a specific quote, no price displayed on the Alps e-commerce site or included in any written or verbal communication shall be deemed firm or guaranteed for any length of time, and all prices are subject to change without notice due to changes in supplier pricing, tariffs, raw material costs, currency fluctuations, or other market conditions. Seller shall collect applicable taxes unless Buyer provides a valid exemption certificate specifying covered Goods. For special-order Goods, prices may change before shipment; Seller will notify Buyer of any such change, and Buyer may cancel those Goods at its discretion—subject to any non-refundable supplier-imposed charges

**4. PAYMENT.**

Payment terms are 30 days net from the invoice date or upon such other terms approved by Seller in writing. Payment is not contingent on Buyer's ability to collect or obtain funds from any other party. Credit card sales are billed at the time of purchase. Buyer expressly represents it is solvent at the time it places any purchase order with Seller. Seller, in its sole discretion, may determine that Buyer's financial condition requires full or partial payment prior to manufacture or shipment. Seller may obtain and use your credit history for credit evaluation purposes. Seller may apply payments to any outstanding invoices unless Buyer provides specific payment direction.

**5. REMEDIES FOR NON-PAYMENT.**

If Buyer fails to make any payment when due, Seller reserves the right to suspend performance. Buyer agrees to pay a charge on all amounts past due at the rate of 1 ½% per month (18% per year) or the maximum lawful rate, whichever is less. In the event of non-payment, Buyer agrees to pay Seller's reasonable attorney fees and court costs, if any, incurred by Seller to collect payment, and all applicable interest charges. Buyer acknowledges that transactions to which these terms relate are commercial transactions. To the extent not contrary to applicable law, Buyer (i) waives any available homestead exemption, (ii) irrevocably authorizes Seller to appoint a representative to appear in a court of competent jurisdiction to confess a judgment without process in Seller's favor and against Buyer for such amount that remain unpaid as well as a 20% collection fee, and (iii) consents to immediate execution upon any such judgment. Buyer voluntarily and knowingly waives its right to notice, demand, presentment, protest and any hearing to which it may be entitled under any state or federal law relating to any right or remedy (including prejudgment remedies) that Seller may elect to use or of which it may avail itself.

**6. TITLE AND RISK OF LOSS OR DAMAGE.**

All sales are F.O.B., point of shipment, and Buyer takes title and assumes responsibility for risk of loss or damage at the point of shipment for such sales. Claims for Goods damaged in transit are Buyer's sole responsibility.

**7. QUOTATIONS.**

All quotations expire thirty (30) days from the date of the quotation unless otherwise noted on the quotation. A quotation does not constitute a fixed price agreement unless explicitly and clearly stated to be firm in writing. Seller may withdraw or modify any quote at any time prior to formal acceptance of an order. Buyer is responsible for confirming current pricing at the time of placing an order, particularly during periods of high market volatility.

**8. RETURN OF PRODUCTS AND ORDER CANCELLATION.**

Seller shall only accept returns of Goods and cancellation of orders in accordance with the Goods return policy of the Vendor.

**9. INTERPRETATION RESPONSIBILITY; PRODUCT USE AND SAFETY.**

Seller does not guarantee that the Goods it sells conform to any plans and specifications or intended use. When plans and specifications are involved, Buyer is solely responsible for verifying Seller's interpretations of such plans and specifications, and it is Buyer's sole responsibility to assure that Seller's Goods will be accepted on any specific job. When Seller offers substitute Goods on any proposal, Buyer is solely responsible for confirming their acceptability.

**10. DELIVERY.**

Seller is a distributor and not a manufacturer and factory shipping dates given in advance of actual shipment are approximate and not guaranteed. Seller shall not be liable for increases in costs or delays in delivery caused by changing market conditions, including but not limited to tariffs, labor shortages, freight increases, supply chain disruptions, or material shortages.

**11. EXCUSABLE DELAYS.**

Seller shall have no liability if its performance is delayed or prevented by causes beyond its reasonable control, including, without limitation, acts of nature, labor disputes, government priorities, transportation delays, delays on the part of any supplier or vendor of Seller, insolvency or other inability to perform by Seller's Vendor, or any other commercial impracticability. In the event of any such delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of delay. Should shipments be held or stored beyond the delivery date for convenience of Buyer, Seller may, at its option, assess reasonable charges for any expense incident to such delay.

## **12. CLAIMS.**

Claims for any nonconforming Goods must be made by Buyer, electronically or in writing, within ten (10) days of Buyer's receipt of such Goods and must state with particularity all material facts concerning the claim then known to Buyer. Failure by Buyer to give notice within such ten (10) day period shall constitute an unqualified acceptance of such Goods by Buyer, and a waiver of any right to reject or revoke acceptance of such Goods.

## **13. WARRANTIES.**

(a) **SELLER'S WARRANTIES:** Seller warrants that all Goods sold are new and, upon payment in full by Buyer of the Goods, free and clear of any security interests or liens. Buyer's exclusive remedy for breach of such warranties shall be replacement with a new product or termination of any security interests or liens. Seller is a distributor and not a manufacturer and makes no independent warranties other than those set forth herein. Any and all warranties not expressly made in these terms and conditions are fully disclaimed to the maximum extent possible.

(b) **VENDOR'S WARRANTIES:** Seller shall also assign to Buyer any Vendor warranties and/or remedies provided to Seller by its Vendor.

(c) **INTELLECTUAL PROPERTY INFRINGEMENT:** Seller disclaims any and all warranties and/or indemnifications against infringement of any intellectual property rights of any nature. Seller shall, if given prompt notice by Buyer of any claim of intellectual property infringement with respect to any goods sold hereunder, request the manufacturer to grant for the Buyer such warranty or indemnity rights as the manufacturer may customarily give with respect to such goods.

(d) **LIMITATIONS:** there are no other warranties written or oral, express, implied or by statute. No implied statutory warranty of merchantability or fitness for a particular purpose applies. No repair of goods or other costs are assumed by Seller unless agreed to, in advance, in writing.

## **14. LIMITATIONS OF LIABILITY.**

Unless applicable law otherwise requires, Seller's and any vendor's total liability to Buyer, Buyer's customers or to any other person, relating to any purchases governed by these terms & conditions, from the use of the goods furnished or from any advice, information or assistance provided by Seller (by any method, including a web site), is limited to the price of the goods giving rise to the claim actually paid to Seller by Buyer. Neither Seller nor its vendors shall be liable under any circumstances for any special, incidental, direct, consequential or penal damages (including, but not limited to back charges, labor costs, costs of removal, replacement, testing or installation, loss of efficiency, loss of profits or revenues, loss of use of the goods or any associated goods, damage to associated goods, lateness or delays in delivery, unavailability of goods, cost of capital, cost of substitute goods, facilities or services, downtime, or claims from Buyer's customers or other parties). If Seller furnishes Buyer with advice or other assistance which concerns any goods supplied hereunder, or any system or equipment in which any such goods may be installed, and which is not required pursuant to these terms & conditions, the furnishing of such advice or assistance will not subject Seller to any liability, whether based on contract, warranty, tort (including negligence) or other grounds.

## **15. MISCELLANEOUS.**

(a) **EXPORTS:** Buyer, NOT Seller, is responsible for compliance with all United States export control rules and regulations.

(b) **ANTI-MONEY LAUNDERING RESTRICTIONS:** Seller rejects questionable orders and payments: Except for pre- approved credit arrangements, Seller rejects third-party payments, cashiers' checks, money orders and bank drafts. Seller accepts only checks imprinted with Buyer's name; wire transfers originated in Buyer's account; letters of credit with Buyer as account party; and credit or debit cards in Buyer's name. All payments must be by single instrument in the amount of the invoice, less credits, from banks acceptable to Seller.

(c) **GOVERNING LAW:** These Terms & Conditions and all disputes related to it shall be governed by the laws of the State Pennsylvania, United States of America, without giving effect to its conflict of law rules. Buyer hereby submits to exclusive jurisdiction and venue in the state and federal courts located in Allegheny County, Pennsylvania. The parties irrevocably waive any right to a jury trial.