

## GENERAL ORDER TERMS AND CONDITIONS FOR ONE RESONANCE SENSORS, LLC

1. Applicability. (a) This ("**Quote**") is an offer by One Resonance Sensors, LLC (the "**Seller**") to sell the goods and/or services specified in the Quote (collectively referred to as (the "**Goods**") to the party addressed in the Quote (the "**Buyer**") in accordance with and subject to the attached terms and conditions (the "**Terms**"); (b) These Terms apply to any purchased new items, repaired items, or replacement Goods provided by Seller under (the "**Order**") awarded as the result of the Quote. ("**Buyer**" and "**Seller**" being sometimes hereinafter referred to as "**the Parties**" and individually as a "**Party**"); (c) These Terms are subject to change at any time.
2. Acceptance. Acceptance of Buyer's Order is subject to the terms and conditions contained herein. These Terms constitute the full and final agreement of the Parties and is not to be modified or amended by any prior or contemporaneous agreement, whether written or oral. No modification of, or addition, to these Terms shall be in effect unless in writing signed by the parties, and no modification or addition shall be effected by the acknowledgment or acceptance of Order forms containing different terms or conditions. All proposed modifications and additions are hereby rejected.
3. Delivery Date. Delivery time is computed from the date of Seller's acknowledgement of written order.
4. Title and Risk of Loss. Risk of loss or damage of the Goods transfers to the Buyer upon pick-up by its transportation company at EXW 8291 Aero Place, Suite 120, San Diego, California, USA. Title in the Goods shall not transfer to the Buyer until the Seller has been paid in full for the Goods.

For international Orders, the Seller may, at its sole discretion, issue Certificates of Origin or complete other forms required for the export of the Goods from the USA.

5. Packaging. Seller will package the Goods according to standard commercial practices for transportation by common carrier.
6. Amendment and Modification. Change of an Order on the request of the Buyer after the original Order was accepted by the Seller shall be subject to re-acceptance. The originally quoted Delivery Date may no longer be applicable. Should the Seller decline acceptance of a change order, the original Order remains binding on the Buyer.
7. Price. The ("**Price**") of the Goods is the Price stated in the Quote. All quotations are firm for a period of 30 days unless specified in writing. All Prices are EXW, 8291 Aero Place, Suite 120, San Diego, California, USA and do not include shipping. Prices quoted do not include City, County, State, Federal or foreign taxes of any kind. All taxes relating to the Goods and their sale are the responsibility of the Buyer. The Buyer shall indemnify the Seller against any and all claims relating to the payment of such taxes.
8. Payment Terms. Seller shall issue an invoice to Buyer on or any time after the completion of delivery or in accordance with the issued Quote. Unless otherwise specified on the face of the Order, 30% of the Price is due upon Buyer's placement of the Order and 70% of the Price upon delivery of the Goods. The Price shall be payable in United States currency in accordance with the terms outlined in the Quote or issued invoice. All invoices rendered in accordance with the agreed terms which are not paid within 30 days shall be subject to interest at the rate of 1.5% per month from the date of the invoice until it is paid.
9. Warranties. Goods sold and manufactured by Seller carry a limited warranty, subject to the terms and conditions hereby set forth. The Goods are warranted for one year from delivery to be free of defects in material and workmanship. The applicable warranty period for the Goods shall begin upon receipt.

The warranty applies only to defects in material and workmanship in covered products. Expressly not covered under warranty is any loss, damage, and/or instrument malfunction relating in any way to shipping or storage, accident, abuse, alteration, misuse, neglect, breakage or abuse of parts, operation other than in accordance with correct operating procedures, system tampering, chemical action or contamination. In-warranty repairs are covered by warranty only for the remaining unexpired portion of the warranty period.

All claims under warranty must be made promptly to Seller within 12 months of its initial Delivery Date. Such claims should include the product type and serial numbers, and a full description of the circumstances giving rise to the claim. Seller reserves the right to determine whether to (a) make repairs under valid warranty claims at its factory in San Diego; or (b) replace the defective product with a product of similar or better specs. Buyer shall return the defective item to an authorized facility. Transportation of any item sent to an authorized facility for examination shall be sent prepaid using a Seller accepted method of transportation at the expense of Buyer. Transportation charges on items returned to Buyer, shall be at Seller's expense.

The warranty provided herewith shall be void in the event, (1) the item fails, malfunctions or is damaged as a result of improper modifications, handling, installation, removal or repairs thereto by persons other than Seller or Seller's authorized representatives or as a result of improper or insufficient maintenance, or (2) the item is accidentally damaged, subjected to abuse or improper use; or (3) is altered or damaged such that Seller is unable to verify the defect with its normal test equipment.

SELLER MAKES NO OTHER WARRANTY OF ANY KIND WITH RESPECT TO THE GOODS OR SERVICES. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED. Seller shall have no liability for strict liability, products liability or negligence, whether active or passive.

10. Exclusive Remedies. Buyer's exclusive remedy for any defective Product is limited to the repair or replacement of the defective covered product. If Seller does not repair or replace a defective covered product, Seller will refund the purchase price of the defective covered product.

11. **Indemnification.** Buyer shall defend, indemnify and hold harmless the Seller and its affiliates, successors or assigns and their respective directors, officers, shareholders and employees and customers (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**") arising out of or occurring in connection with Buyer's abuse, alteration, misuse, neglect, breakage or abuse of parts, operation other than in accordance with correct operating procedures, system tampering, chemical action or contamination of products purchased from Seller or negligence, willful misconduct or breach of the Terms by Buyer, including third-party claims. Buyer shall not enter into any settlement without the Seller's or Indemnitee's prior written consent.

12. **LIMITED LIABILITY.** IN NO EVENT SHALL THE SELLER BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, MULTIPLE OR PUNITIVE DAMAGES, LOSS OF PROFITS OR ANY DAMAGE DEEMED TO BE OF AN INDIRECT OR CONSEQUENTIAL NATURE ARISING OUT OF OR RELATED TO ITS PERFORMANCE UNDER THE ORDER, WHETHER BASED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE AND WHETHER GROUNDED IN TORT, CONTRACT, CIVIL LAW OR OTHER THEORIES OF LIABILITY, INCLUDING STRICT LIABILITY.

IN NO EVENT, SHALL THE TOTAL CUMULATIVE LIABILITY OF SELLER WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR THE PERFORMANCE OR BREACH OF THE CONTRACT OR ANYTHING DONE IN CONNECTION THEREWITH EXCEED THE ORDER PRICE. ANY ACTION AGAINST SELLER MUST BE BROUGHT WITHIN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES.

13. **Intellectual Property and Confidential Information.** All technical and commercial information Seller discloses to Buyer is proprietary to Seller and disclosed to Buyer in confidence for the limited purpose of assisting Buyer in the evaluation and use of the product. Unless otherwise authorized in writing by Seller, Buyer shall not disclose such proprietary information, directly or indirectly, to any other person or use such proprietary information except for the limited purpose provided herein. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.

Unless specifically identified and priced in this Order as a separate item or items to be delivered by Seller (and in that event, except to the extent so identified and priced), the sale of Goods hereunder confers on Buyer no right in, license under, access to, or entitlement of any kind to any of Seller's technical data, including but not limited to design, process technology, software and drawings, or to Seller's inventions (whether or not patentable), irrespective of whether any such technical data or invention or any portion thereof arose out of work performed under or in the course of this contract, and irrespective of whether Buyer has paid or is obligated to pay Seller for any part of the design and/or development of the Goods.

14. **Compliance with Law.** Each Party is in compliance with and shall comply with all applicable laws, regulations and ordinances. Each Party has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Order.

15. **Termination.** In addition to any remedies that may be provided under these Terms, Seller may terminate this Order with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Order 5 days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

16. **Waiver.** No waiver by any Party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in the Order, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

17. **Force Majeure.** Neither Party shall be liable to the other for any delay or failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that Party, without such Party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("**Force Majeure Event**"). Neither Party may claim compensation for damage or loss of any kind whatsoever due to delay of delivery.

18. **Assignment.** No assignment or delegation shall relieve either Party of any of its obligations hereunder. Buyer may not at any time assign, transfer or subcontract any or all of its rights or obligations under the Order without Seller's prior written consent.

19. **Relationship of the Parties.** The relationship between the Parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever. No relationship of exclusivity shall be construed from this Order.

20. Export Control. The International Traffic in Arms Regulations (“ITAR”), set forth at 22 C.F.R Parts 120-130, and the Export Administration Regulations (“EAR”) set forth at 15 C.F.R. Parts 730-774 may regulate disclosure of various types of technical information (regardless of whether it is considered Confidential Information) relating to design, development, manufacture, maintenance, repair, or use of Seller’s products (referred hereinafter as “export controlled information”). The Parties acknowledge and understand these regulations, and each agree that it and its Affiliates will abide by any required controls on the dissemination of export controlled information in any form in compliance with ITAR and the EAR.

The Parties will comply with all applicable export and import laws and regulations, including laws and regulations of the United States, the EU Dual Use Export Control Regime Directive and the Wassenaar Arrangement, unless authorized by applicable governmental license or regulation, not directly or indirectly export or re-export any technical information or software subject to this Agreement to any prohibited destination.

21. Governing Law and Jurisdiction. Any Order issued as the result of the Quote shall be governed by, construed and enforced in accordance with the laws of the State of California, without regard to its conflict of law rules. The parties hereby (i) agree that any legal suit, action, or proceeding arising out of or relating to any Order resulting from the Quote will be instituted exclusively in the state or Federal courts located in San Diego County, California; (ii) waive any objection to the venue of any such suit, action, or proceeding and the right to assert that such forum is not a convenient forum for such suit, action or proceeding, (iii) irrevocably consent and submit to the personal jurisdiction of the state or Federal courts of San Diego County, California in any action instituted by the other arising under or related to any Order issued as the result of this Quote. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect to any litigation directly or indirectly arising out of under or in connection with this Order.

22. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the Parties at the addresses set forth on the face of this Order or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Order, a Notice is effective only (a) upon receipt of the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.

23. Severability. If any term or provision of this Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

24. Survival. Provisions of this Order which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions: Warranties, General Indemnification, Intellectual Property, Indemnification, Compliance with Laws, Confidentiality, Governing Law, Jurisdiction, and Survival.