



## **ASTEK Standard Terms & Conditions of Sale**

NOTE: Research and development engineering is a creative process that often involves some amount of work before a design can be entirely characterized, while ASTEK works to ensure that known risks are addressed, some issues may be unknown to ASTEK and to the customer until some amount of design engineering has been performed. Customers must consider the risks inherent in any R&D effort before beginning a project. Risks include but are not limited to: unknown technical challenges; limitations in availability of essential components; limitations in availability of contract manufacturing resources; delays in securing legal agreements on behalf of the customer, such as Non-Disclosure Agreements and/or licenses to third-party Intellectual Property; and other events beyond ASTEK's control. ASTEK takes every effort to ensure our customers success, which is critical to our success, however customers should take note that under no circumstances can any ASTEK employee waive the limitations of liability as set forth in these terms, without written approval from an officer of the company.

As of November 8, 2018, the following terms apply to all sales unless a previous written agreement has been made and signed by an authorized ASTEK Corporation representative.

These terms of sale ("Agreement") govern all sales of products by ASTEK. Any terms set forth in Customer's purchase order, acknowledgment or other document that are in addition to or inconsistent with this Agreement are expressly rejected by ASTEK and will be of no force and effect. If this Agreement is provided in response to Customer's purchase order, such purchase order is deemed a request for quotation only, and this Agreement is an offer to sell the products ordered. If this Agreement is deemed an acceptance of Customer's purchase order, such acceptance is expressly conditional on Customer's assent to the terms of this Agreement. This Agreement incorporates only those terms of ASTEK-accepted purchase orders that relate to the prices or quantities of the products. Orders or requests for purchases that have not been accepted in writing by ASTEK are not binding on ASTEK until and unless the products are shipped to Customer. ASTEK's failure to object to any term or condition contained in any communication from Customer will not be deemed a waiver of the terms and conditions in this Agreement.

### **1. DEFINITIONS**

"Built-to-Order Product" means a Standard Product or Custom Product that is not kept in inventory on a regular basis but is only manufactured by ASTEK for a Customer when ASTEK receives a purchase order from Customer for such Product.

"Business Day" means any day, other than a Saturday or Sunday, that banks are open for business in Colorado Springs, Colorado.

"Custom Product" means any product that is designed by or for Customer, manufactured to Customer's design specifications by ASTEK, and manufactured solely and exclusively for Customer. Any product that is not a standard product, is a custom product.

"Products" means Standard Products, Built-to-Order Products, and Custom Products.

"Standard Product" means the goods that ASTEK identifies as standard products that include PCIe host adapter boards, expander boards, switches, cabling, fixtures, and Test and Measurement products.

### **2. PRICES**

Prices will be consistent with ASTEK's current price list on the date ASTEK acknowledges Customer's order or as specified in a quotation provided to Customer, as applicable. All prices are in US dollars. Prices do not include any freight-related costs, insurance costs, customs clearance fees or any taxes that may be applicable to the Products sold under this Agreement. All applicable taxes, including without limitation all federal, state, or local excise, sales, use, or similar taxes, or any export or import duties (other than taxes based on the net income of ASTEK) are the responsibility of Customer, and Customer agrees to pay such taxes unless Customer has provided a valid tax-exemption certificate to ASTEK prior to Product shipment.

### **3. PAYMENT TERMS**

Payment terms are Credit Card unless other Payment Terms such as "NET 30" are established with ASTEK Management. Any "NET" Payment terms require payment to be made to ASTEK from the invoice date and not receipt of the invoice. In addition, any "NET" terms are measured in Calendar days and not Business days. Example: "NET 30" Terms mean payment must be received by ASTEK within 30 calendar days from the date on the invoice. ASTEK may periodically request financial information from Customer to review credit terms and based on such review may, in its sole discretion, require different payment terms. Shipments to non-US destinations may require the setup of an irrevocable letter of credit at the expense of Customer. Payment will be in U.S. dollars unless otherwise agreed to in writing by ASTEK. Each shipment (including partial shipments) will be separately invoiced and paid for when due without regard to other shipments. Without limiting other remedies, all past due payments will accrue interest at one and a half percent (1.5%) per month on the unpaid balance, or the highest rate allowed by law, whichever is less. Customer will pay for all collection costs, attorneys' fees, and court costs incurred in the collection of past due amounts. ASTEK reserves, and Customer grants to ASTEK, a first priority, purchase money security interest in all Products shipped to Customer (and all resulting proceeds or receivables) until ASTEK receives payment in full for those Products. ASTEK may file a financing statement with appropriate state and local authorities to perfect ASTEK's security interest. At ASTEK's request, Customer will promptly execute and deliver all documents that ASTEK deems advisable to protect ASTEK's interest in the secured property; alternatively, ASTEK may file a copy of this Agreement and other applicable documents.

### **4. DELIVERY, TITLE, RISK OF LOSS**

All sales and deliveries are shipped Ex-Works ASTEK warehouse (as defined in the INCOTERMS 2000) for all deliveries with the exception of shipments from the United States to the following territories: Canada, Mexico, Central America, and South America, which are shipped FCA ASTEK warehouse. Title and risk of loss or damage will pass to the Customer upon ASTEK's tender of the Products to the carrier. Unless Customer provides ASTEK with written shipping instructions in its purchase order, ASTEK may select the carrier and mode of shipment without assuming any liability for loss, theft or delay. If Customer provides written shipping instructions in its purchase order, but the particular carrier and/or mode of shipment selected by Customer is not available at the time ASTEK is prepared to ship the Products, ASTEK may select a comparable alternative carrier and/or mode of shipment without assuming any liability for loss, theft or delay. ASTEK will use its discretion to set the delivery date, fill orders and determine the order in which orders are filled. All shipping dates are estimates only. Partial and/or installment shipments are authorized. In the event ASTEK's ability to supply Product becomes constrained, ASTEK may, as ASTEK deems reasonable, reduce quantities or delay shipments to Customer and may allocate production and delivery among its customers.

### **5. PRODUCT ACCEPTANCE**

Customer will accept any Product ordered that conforms to the Product specifications. Acceptance occurs upon delivery to the carrier. Failure by Customer to give written notice of rejection within twenty (20) calendar days of shipment will be deemed acceptance. If Customer notifies ASTEK in writing within the applicable period after Customer's receipt of the Product that the Product is nonconforming, then upon approval from ASTEK, Customer may return such Product to ASTEK in accordance with the ASTEK material return procedure, accompanied by a written explanation of the reasons for the return. Delay in delivery of any installment will not relieve Customer of its obligation to accept shipments received.

### **6. MODIFICATION AND SUBSTITUTION, DISCONTINUED DESIGNS**

ASTEK may modify the specifications of Standard Products and substitute Standard Products manufactured to such modified specifications at any time without prior notice to Customer, provided such Standard Products substantially conform to the form, fit and function of the original Product. ASTEK will provide Customer with the current specifications pertaining to each Standard Product. ASTEK may, at its own discretion, provide Customer with notice of a modification of specifications for Standard Products and offer Customer the opportunity to place final orders for the unmodified version of such Standard Products. ASTEK may at any time cease production of any Product. Prior to discontinuing a Product, ASTEK will provide Customer with six (6) months' notice and, during such six (6) month period, Customer may place orders for delivery within the twelve (12) months following notice of discontinuation. ASTEK reserves the right to provide a shorter notice and delivery schedule based on its business conditions.

### **7. TERMINATION**



If either party defaults on a material provision of this Agreement and, when the default is non-monetary, does not cure such default within sixty (60) days after written notice of default is received from the other party, the other party will have the right, at its option, to suspend performance or payment, in whole or in part, until such default is cured, or terminate the purchase orders placed, in whole or in part, or a combination thereof. In the event of a monetary default, if the defaulting party does not cure such default within ten (10) days after written notice of default is received, the other party will have the foregoing suspension and termination rights. If Customer becomes insolvent, makes an assignment for the benefit of creditors, files or has filed against it a petition in bankruptcy or seeking reorganization, has a receiver appointed, or institutes any proceedings for liquidation or winding up, then ASTEK may, in addition to other rights and remedies it may have, immediately terminate any purchase orders.

#### **8. RESCHEDULING, CANCELLATION**

Customer is not entitled to defer or reschedule any order, or any portion thereof, within thirty (30) days of the scheduled shipment date as set forth in ASTEK's acknowledgment for such order. For orders not scheduled to ship in less than thirty (30) days, Customer may defer or reschedule any such order, or any portion thereof, one time only, to a shipment date that is the sooner of: (A) not more than forty-five (45) days after the scheduled shipment date as set forth in ASTEK's acknowledgment for such order or (B) the last business day of ASTEK's fiscal quarter in which that shipment was initially scheduled. Orders for Products may be cancelled, subject to the payment of a cancellation fee. The cancellation fee is a percentage of the value of the cancelled portion of the order as follows for Standard Products: (i) thirty one (31) or more days prior to the originally scheduled shipment date as set forth in ASTEK's order acknowledgment, 75%, and (ii) between the originally scheduled shipment date as set forth in ASTEK's order acknowledgment and thirty (30) days prior to such date, 100%. The relevant date of cancellation will be the date that ASTEK actually receives written notice of cancellation. Notwithstanding anything to the contrary in this Agreement, Customer may not cancel any purchase order or portion thereof, for items quoted as NCNR (Non-Cancellable, Non-Returnable), Custom Products or Built-to-Order Products.

#### **9. INDEMNIFICATION**

(a) Except as set forth below, ASTEK agrees to defend Customer from and against, or in its discretion, settle, any and all third party claims, demands and actions brought against Customer based upon any alleged infringement of U.S. patents, U.S. copyrights or mask work rights owned by third parties by any Product purchased by Customer from ASTEK, or upon any alleged disclosure or misuse by ASTEK of trade secrets of a third party in connection with the design or production of any Product (an "IP Claim"). ASTEK agrees to pay any money damages (other than attorneys' fees and exemplary or punitive damages) finally awarded against Customer attributable solely to any such infringement, disclosure, or misuse. As a condition of ASTEK's obligations under this Section 9, Customer will give ASTEK prompt written notice of any IP Claim, full authority to defend and settle such IP Claim, and all reasonable assistance requested by ASTEK. If, as a result of an IP Claim, Customer is enjoined from selling, using, or otherwise disposing of the Product purchased from ASTEK, then ASTEK will, at its option, (i) procure for Customer the right to sell and use the Product, (ii) provide Customer with replacement Product that is non-infringing and meets the same functional specifications as the Product, or (iii) if ASTEK cannot procure such rights or furnish such replacement Product on commercially reasonable terms, refund to Customer the full purchase price actually paid for the infringing Product less a reasonable allowance for the period of time Customer or Customer's customer has used the Products. **THIS SECTION STATES THE ENTIRE LIABILITY OF ASTEK AND THE EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO INFRINGEMENT OR DISCLOSURE OR MISUSE OF INTELLECTUAL PROPERTY RIGHTS.**

(b) Notwithstanding the above, ASTEK will have no obligation to indemnify or make any payments to Customer under Section 9(a) with respect to any IP Claim arising out of or relating to either (i) the combination of one or more ASTEK library elements with any other circuitry in the design of any Product, (ii) the combination or incorporation of any Product or elements of any Product supplied by ASTEK with any other product, end item, or subassembly, (iii) the use or incorporation in any Product of, or the infringement of any Product arising out of or relating to, any design, technique or specification furnished by or on behalf of Customer, (iv) any infringement based on protocols established by standards bodies (including MPEG technologies and IEEE 1394), or (v) the unauthorized use or distribution of Product beyond specifications of the Product. Customer will defend and indemnify ASTEK from and against any liability, damages, cost or expense (including attorneys' fees) arising out of any such claim asserted against ASTEK arising out of or relating to any act or condition described in clauses (i), (ii), (iii), (iv), or (v) above.

#### **10. LIMITED WARRANTY AND DISCLAIMER**

ASTEK warrants that production units of the Products manufactured by ASTEK will be free from defects in material and workmanship under normal use and service for the following time periods (as measured from the date of shipment to Customer) (each an "Applicable Warranty Period"): Standard Products - one (1) year; and batteries, memory, and any other pluggable devices - one (1) year. ASTEK's exclusive obligation and Customer's sole and exclusive remedy, for any breach of this warranty is, at ASTEK's option, to replace, repair, refund or give a credit for Products that do not meet the warranty standard stated above within the Applicable Warranty Period; provided that Customer returns the Product to ASTEK, transportation charges prepaid, in accordance with ASTEK's specific instructions for return (including, without limitation, the ASTEK RMA process), and ASTEK verifies to its satisfaction that the Product is defective. Replacement Products may be refurbished. Customer will pay all transportation charges on any Products returned from Customer to ASTEK. Any Product that has either been repaired or replaced by ASTEK under the terms of this limited warranty will have warranty coverage for the remaining period of time of the originally shipped Product. **EXCEPT FOR THE LIMITED WARRANTY STATED IN THIS SECTION 10, ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, WITH RESPECT TO ANY PRODUCT OR OTHER ITEMS DELIVERED UNDER THIS AGREEMENT, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED. THIS SECTION 10 SETS FORTH ASTEK'S SOLE OBLIGATION AND CUSTOMER'S EXCLUSIVE REMEDY FOR BREACH OF THE LIMITED WARRANTY IN THIS SECTION 10.** This limited warranty does not apply to semiconductor die or to any Products that are not finished and fully encapsulated. The warranties provided under this Section 10 will be void if (a) the Product fails or malfunctions as a result of improper handling, installation, maintenance, removal, modification, or repair; (b) the Product is damaged after shipment, or subjected to abuse, abnormal physical or electrical stress, or improper use, or (c) the Product is used or distributed beyond specifications of Product. **PROTOTYPES, PRE-PRODUCTION PRODUCTS AND PRODUCTS THAT ARE NOT FINISHED AND FULLY ENCAPSULATED ARE SOLD STRICTLY "AS IS."**

#### **11. CONFIDENTIAL INFORMATION**

Customer acknowledges that materials received from ASTEK may be considered confidential and proprietary ("Confidential Information"). Customer agrees to maintain in strict confidence such information that, if disclosed in writing, is identified and marked as confidential (or with words of similar meaning) at the time of its disclosure (or that, if disclosed verbally, is designated as confidential at the time of disclosure and is summarized and identified as confidential in a writing delivered to Customer within thirty (30) days after the disclosure). All information disclosed in electronic form will be deemed confidential. Customer will not disclose such information to any third party without the prior written consent of ASTEK. Customer will protect such information from disclosure to others with at least the same degree of care as Customer exercises to protect its own information of similar type and importance, but in no event less than reasonable care. The obligations of confidentiality and protection required by this Section 11 will survive the expiration, termination, or cancellation of this Agreement for a period of five years. The obligation of confidentiality will not apply, or will cease to apply, to any information that: (a) was known to Customer prior to its receipt of Confidential Information under this Agreement; (b) is or becomes publicly available without breach of this Agreement; (c) is received from a third party without an obligation of confidentiality to ASTEK; or (d) is developed independently by employees of Customer not having access to such information.

#### **12. INTELLECTUAL PROPERTY**

ASTEK and Customer agree that no intellectual property rights are transferred under this Agreement, and ASTEK retains all right, title and interest in and to all patents, copyrights, trademarks, trade secrets, mask works, and all other intellectual property and proprietary rights subsisting in or related to the Products. Certain Products provided by ASTEK to Customer may contain or require the use of preinstalled computer programs which provide basic logic, operating instructions, and user-related application instructions (the "Embedded Software"). The Embedded Software is licensed, not sold. To the extent that the Products contain any Embedded Software not governed by a separate software license agreement agreed to by the parties in writing or accompanying the Products, ASTEK grants to Customer a nonexclusive right and license to use and perform the Embedded Software solely in executable form and solely as necessary to operate the Products. Customer will not (a) reproduce the Embedded Software; (b) modify, incorporate into or with other software, or create a derivative work of any part of the Embedded Software, (c) reverse-engineer the Products or decompile, disassemble, or otherwise attempt to derive the source code of the Embedded Software; (d) distribute, sublicense, lease, rent, loan or otherwise transfer the Embedded Software to any third party (except as expressly provided in this Section 12); or (e) remove from the Embedded Software from the Product.



Customer may transfer its license right to use the Embedded Software solely in connection with the sale of the Products that contain or require the use of such Embedded Software.

### **13. FORCE MAJEURE**

ASTEK will have no liability for delays or failures in performance of any obligation under this Agreement that are caused by any act or occurrence that is beyond ASTEK's reasonable control, including, but not limited to, fire, flood, earthquake or other natural disaster, shortages of materials, labor disputes, war or civil disturbance, disruption of normal production, or an interruption of the means of transportation ("Force Majeure Events"). In such event, ASTEK's performance will be excused for the time that the Force Majeure Event continues.

### **14. EXPORT CONTROL**

Upon delivery of Product to the carrier, Customer will be responsible for ensuring compliance with all applicable export laws and regulations relating to the export of technical information, data, or Products received from ASTEK, and will not export or reexport any Confidential Information, technical data or Products received from ASTEK in violation of any applicable law.

### **15. LIMITATION OF LIABILITY**

IN NO EVENT WILL ASTEK'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO TEN PERCENT (10%) OF THE AGGREGATE CONSIDERATION PAID BY CUSTOMER TO ASTEK FOR THE PRODUCTS GIVING RISE TO THE CLAIM AND PURCHASED UNDER THIS AGREEMENT OVER THE 12-MONTH PERIOD PRECEDING ACCRUAL OF THE CLAIM. MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMIT. FOR THE PURPOSE OF THIS SECTION, "CLAIM" MEANS ONE OR MORE CLAIMS, WHETHER BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE ARISING OUT OF ANY BREACH, OR RELATED BREACHES, OF THIS AGREEMENT OR ARISING OUT OF ANY ACT OR OMISSION, OR RELATED SERIES OF ACTS OR OMISSIONS, BY ASTEK OR ITS SUPPLIERS OR CONTRACTORS OCCURRING IN CONNECTION WITH PERFORMANCE UNDER THIS AGREEMENT WITH RESPECT TO A PRODUCT ORDERED BY CUSTOMER. ARISING OUT OF ANY BREACH, OR RELATED BREACHES OF THIS AGREEMENT OR ARISING OUT OF ANY ACT OR OMISSION, OR RELATED SERIES OF ACTS OR OMISSIONS, BY ASTEK OR ITS SUPPLIERS OR CONTRACTORS OCCURRING IN CONNECTION WITH PERFORMANCE UNDER THIS AGREEMENT WITH RESPECT TO A PRODUCT ORDERED BY CUSTOMER, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT OR IN TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE, WHETHER OR NOT FORESEEABLE, EVEN IF ASTEK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY PROVIDED IN THIS AGREEMENT. IN NO EVENT WILL ASTEK BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS) ARISING OUT OF ANY BREACH, OR UNAUTHORIZED OR NON-STANDARD COMMERCIAL APPLICATIONS, OR RELATED BREACHES OF THIS AGREEMENT OR ARISING OUT OF ANY ACT OR OMISSION, OR RELATED SERIES OF ACTS OR OMISSIONS, BY ASTEK OR ITS SUPPLIERS OR CONTRACTORS OCCURRING IN CONNECTION WITH PERFORMANCE UNDER THIS AGREEMENT WITH RESPECT TO A PRODUCT ORDERED BY CUSTOMER, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT OR IN TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE, WHETHER OR NOT FORESEEABLE, EVEN IF ASTEK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY PROVIDED IN THIS AGREEMENT

### **16. HIGH RISK USES**

ALL PRODUCTS ARE MANUFACTURED AND TESTED FOR STANDARD COMMERCIAL APPLICATIONS ONLY. IF ANY PRODUCT IS USED IN ANY CRITICAL SAFETY SYSTEM, LIFE-SUPPORT SYSTEM, MEDICAL DEVICE, NUCLEAR FACILITY, MILITARY DEVICE, SATELLITE, AVIATION EQUIPMENT OR OTHER HIGH-RISK APPLICATIONS ("NON-STANDARD COMMERCIAL APPLICATIONS"), CUSTOMER IS RESPONSIBLE FOR PERFORMING ADDITIONAL TESTS AND THUS UPGRADING IT TO PERFORM IN ANY ENVIRONMENT THAT IS NON-STANDARD COMMERCIAL APPLICATIONS. ASTEK DISCLAIMS ANY AND ALL LIABILITY IN CONNECTION WITH USE OF THE PRODUCT FOR ANY NON-STANDARD COMMERCIAL APPLICATIONS, AND CUSTOMER AGREES TO INDEMNIFY, DEFEND, AND HOLD ASTEK HARMLESS AGAINST ANY LOSS, LIABILITY, OR DAMAGE OF ANY KIND INCURRED IN CONNECTION WITH SUCH USE.

### **17. MISCELLANEOUS**

The parties are independent contractors and nothing in this Agreement will be construed to imply a partnership, joint venture, principal and agent, or employer and employee relationship between the parties. Neither party will have the right, power, or authority to create any obligation, express or implied, on behalf of the other party.

Customer will not assign this Agreement or any of its rights or privileges under this Agreement or delegate any of its duties under this Agreement without the prior written consent of ASTEK other than to a successor in ownership of all or substantially all of Customer's assets, provided that the successor expressly assumes in writing the assignor's obligations under this Agreement. Subject to the foregoing, this Agreement will be binding upon, enforceable by, and inure to the benefit of the parties and their respective successors and assigns. Any attempted assignment in violation of this Section will be null and void.

This Agreement will be construed and interpreted in accordance with the law of the State of Colorado (except its choice of law rules) as though entered into by two parties both residing in Colorado and fully performed within this State. All disputes arising out of or related to this Agreement will be subject to the exclusive jurisdiction and venue of the Superior Court of Colorado for the county of El Paso (or, if there is exclusive federal jurisdiction, the United States District Court for the District of Colorado), and the parties' consent to the personal and exclusive jurisdiction of these courts. In any dispute or litigation between the parties arising out of or related to this Agreement, the prevailing party will be entitled to have its attorneys' fees, litigation-related reasonable expenses and costs and cost of suit (if any) paid by the non-prevailing party.

No failure or delay on the part of either party in the exercise of any right or privilege under this Agreement will operate as a waiver thereof or of the exercise of any right or privilege under this Agreement, nor will any single or partial exercise of any such right or privilege preclude other or further exercise thereof or of any other right or privilege.

Any notice or claim provided for in this Agreement will be in writing and will be given (i) by personal delivery, effective upon delivery, (ii) by first class mail, postage prepaid, effective one business day after proper deposit in the mail, addressed to the other party's corporate headquarters and to the attention of its legal department or (iii) by facsimile directed to the facsimile number provided by the recipient, but only if accompanied by mailing of a copy, effective as of the date of transmission.

If ASTEK receives instructions or information regarding requirements from a Customer (e.g., a subcontractor) that is purchasing Products under this Agreement for or on behalf of third party (e.g., an OEM) and such instructions or requirements to ASTEK conflict with those of such third party, ASTEK will have the right to determine in its sole discretion whose instructions or requirements to follow.

If any provision of this Agreement is held to be ineffective, unenforceable or illegal for any reason, such decision will not affect the validity or enforcement of any or all of the remaining portions of this Agreement.

The Products and any related technical data are commercial items as defined in 48 C.F.R. 2.101. Consistent with 48 C.F.R. 12.211 through 12.212, 48 C.F.R. 227.7202-1 through 227.7202-4, and 48 C.F.R. 252.227-7015, all U.S. Government end users acquire the Products and any technical data with only those rights set forth in this Agreement. In the absence of a signed agreement covering the sale of specific Products, this Agreement embodies the final, complete and exclusive statement of the terms agreed upon by the parties with respect to the subject matter of this Agreement and supersedes any prior or contemporaneous representations, descriptions, or courses of dealing with regard to such subject matter. This Agreement may be amended, modified, or superseded only by means of a written agreement executed by an authorized representative of each party.