

## TERMS AND CONDITIONS OF SALE

1. **APPLICABILITY.** These Terms and Conditions of Sale (“Terms”) apply to the purchase and sale of products (the “Products”) by Coyote International, L.L.C. (“Coyote”) and buyer (“Buyer”), each of which is identified in the accompanying quotation, proposal, purchase order, order acknowledgement, or invoice (the “Sales Confirmation”). These Terms and the Sales Confirmation comprise the entire agreement between the parties (collectively, the “Agreement”). **Buyer accepts these Terms by signing and returning Coyote’s quotation, by sending a purchase order in response to the quotation, or by Buyer’s instructions to Coyote to ship the Product. No terms, conditions, or warranties other than those identified in the quotation and no agreement or understanding in any way purporting to modify the Terms, whether contained in Buyer’s purchase order or shipping release forms, or elsewhere, shall be binding on Coyote unless hereafter made in writing and signed by Coyote’s authorized representative. Buyer is hereby notified of Coyote’s express rejection of any term inconsistent with this Agreement or to any other term proposed by Buyer in accepting Coyote’s quotation. Neither Coyote’s subsequent lack of objection to any terms nor the delivery of the Products shall constitute an agreement by Coyote to any other terms.**

2. **CANCELLATION.** Cancellation or modification of all or any part of any order is subject to Coyote’s prior written consent in each instance. If cancellation or modification is allowed, Buyer agrees to pay to Coyote all expenses incurred and damage sustained by Coyote on account of the cancellation or modification.

3. **PRICES.** Prices on accepted orders are firm for a period of ninety (90) days from date of acceptance. All stated prices are exclusive of any taxes, fees, duties and levies, however designated or imposed, including, but not limited to, value added, excise and withholding taxes that are levied or based upon the amounts paid under this Agreement (collectively, “Taxes”). Any Taxes related to the Products purchased pursuant to this Agreement are the responsibility of Buyer (excluding taxes based on Coyote’s net income), unless Buyer presents an exemption certificate acceptable to Coyote and the applicable taxing authorities. If possible, Coyote will bill Taxes as a separate item on the invoice presented to Buyer. If any exemption certificate presented by Buyer is held to be invalid, then Buyer will pay Coyote the amount of the Taxes and any penalties and interest related thereto.

4. **PAYMENT TERMS.** Upon credit approval, terms are NET 30 from date of invoice; F.O.B. Fort Worth, Texas. Minimum Order: \$200.00 Domestic and \$300.00 International. A \$40.00 administrative fee will be assessed on all international shipments. NSF Return Check Fee: \$50.00. Buyer may not withhold payment of any amounts due and payable as a setoff of any claim or dispute with Coyote, regardless of whether relating to Coyote’s breach, bankruptcy or otherwise.

5. **PAYMENT DEFAULT.** Coyote collects overdue bills by taking the following steps: At 30 days past due (60 days total), Coyote sends a formal letter and credit and shipments are put on hold. At 60 days past due (90 days total), Buyer loses open account status and Coyote will proceed with further collection options as deemed necessary. If payment is 90 days past due, it may be necessary, to employ an attorney to collect past due amounts, and in such case, Buyer agrees to pay Coyote’s reasonable attorneys' fees and costs, including all costs of litigation.

6. **DELIVERY; SHIPPING.**

(a) Coyote will deliver the Products within a reasonable time after receiving Buyer's purchase order, subject to their availability. The delivery date provided by Coyote for the Products is only an estimate and is based upon prompt receipt of all necessary information from Buyer. If Buyer causes Coyote to delay shipment of the Products, Coyote will be entitled to any and all extra costs and expenses resulting from the delay. Coyote will not be liable for any delays, loss, or damage in transit, and failure to deliver within the time estimated will not be a material breach of contract on Coyote's part.

(b) Unless otherwise agreed in writing by the parties, Coyote will deliver the Products to the location specified in the Sales Confirmation (the "Delivery Location"), using Coyote's standard methods for packaging and shipping. Buyer will take delivery of the Products within three (3) days of Coyote's notice that the Products have been delivered to the Delivery Location. If Buyer fails to take delivery of the Products within this three (3) day period Buyer will pay Coyote for the Products and all storage expenses incurred by Coyote. Coyote may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer will pay for the units shipped whether the shipment is in whole or partial fulfillment of Buyer's purchase order. Buyer is responsible for obtaining any import licenses and other consents required for a Product shipment at its own expense, and will provide the licenses and consents to Coyote before shipment.

(c) The quantity of any installment of the Products, as recorded by Coyote on the dispatch from Coyote's place of business, is conclusive evidence of the quantity received by Buyer upon delivery, unless Buyer provides conclusive evidence to the contrary. Coyote will not be liable for any non-delivery of the Products to the Delivery Location, unless Buyer gives written notice to Coyote of the non-delivery within five (5) days following the date that Buyer would, in the ordinary course of business, have received the Products. Coyote's liability for any non-delivery of the Products will be limited to replacing the Products within a reasonable time or adjusting the invoice for the Products to reflect the actual quantity delivered.

7. **TITLE; RISK OF LOSS.** Title and risk of loss or damage passes to Buyer upon delivery to the carrier. If Buyer fails to accept delivery of any of the Products on the date set forth in Coyote's notice that Coyote has delivered the Products to the Delivery Location, or if Coyote is unable to deliver the Products to the Delivery Location on the date because Buyer has failed to provide appropriate instructions, documents, licenses, or authorizations, then: (i) risk of loss to the Products will pass to Buyer; (ii) the Products will be deemed to have been delivered to Buyer; and (iii) Coyote, at its option, may store the Products until Buyer takes possession of them, at which time Buyer will be liable for all costs and expenses resulting from the failure (including but not limited to the cost of storage and insurance).

8. **INSPECTION; REJECTION OF PRODUCTS.**

(a) As used in this Section 8, "Nonconforming Products" means only the following: (i) the items shipped are different from those identified in Buyer's purchase order; or

(ii) the labels or packaging of the items incorrectly identifies them. Buyer will inspect the Products within five (5) days following receipt thereof (the "Inspection Period"). The Products will be deemed accepted at the end of the Inspection Period unless Buyer notifies Coyote in writing of any Nonconforming Products and furnishes Coyote with written evidence or other documentation reasonably required by Coyote.

(b) If Buyer timely and properly notifies Coyote of any Nonconforming Products, then Coyote will, in its sole discretion, (i) replace the Nonconforming Products with conforming Products or (ii) credit or refund the purchase price for the Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer. At Coyote's request, Buyer will dispose of the Nonconforming Products or return the Nonconforming Products to Coyote at Coyote's expense. Upon receipt of the Nonconforming Products, Coyote will promptly refund the monies owed or ship the replacement Products to the Delivery Location at Coyote's expense, with Coyote retaining the risk of loss until delivery.

(c) Buyer acknowledges and agrees that the remedies set forth in this Section 8 are Buyer's exclusive remedies for the delivery of Nonconforming Products, and **except as set forth in this Section 8, Buyer has no right to return the Products to Coyote without Coyote's written authorization.**

9. **LIMITED WARRANTY.** Coyote warrants its Products to be free from defects in material and workmanship under normal use for a period of thirty (30) days from the date of shipment. Because Coyote does not install or connect the Products and because the Products may be used in conjunction with products not manufactured by Coyote, Coyote cannot guarantee the performance of the Product and shall not be responsible in any way whatsoever for faulty installation or connection. This limited warranty applies to the original purchaser only and is non-transferable. This limited warranty does not cover damage incurred in shipping or handling or problems that result from external causes such as accident, abuse, or misuse.

RETURN POLICY: Prior authorization from Coyote is required before returning any Product. Coyote will not accept any shipment for which prior authorization has not first been obtained or for which a Returned Goods Authorization Number (RGA) has not been issued. Products must be returned to Coyote's factory within thirty (30) days after date of shipment to Buyer. Buyer must prepay the freight for all returned Products and is responsible for all damage or loss incurred in transit. If Coyote determines returned Products are defective, credit will be issued for the freight. All items must be returned in original packaging.

If the warranted Products are returned to Coyote during the limited warranty period, Coyote may repair or replace without charge those Products found to be defective after inspection by Coyote, or, in Coyote's sole and exclusive discretion, refund the amounts Buyer paid for the Products. Coyote shall not, however, repair or replace or issue credit on any Products which have been altered or defaced in any way or upon which any additional operation has been performed. Any replaced or repaired products are warranted for the remainder of the original warranty.

NAFTA customers must return goods with a NAFTA certificate to avoid a customs fee charge back.

RESTOCKING CHARGE: A restocking charge of 25% of invoice amount may apply on authorized RGA's of "Non-Defective" stock products. Additional charges may be applied if product is damaged.

**COYOTE'S RESPONSIBILITY FOR DEFECTS IN MATERIAL AND WORKMANSHIP IS LIMITED TO REPAIR AND REPLACEMENT OF THE PRODUCT, OR IN COYOTE'S SOLE AND EXCLUSIVE DISCRETION, REFUND OF THE AMOUNTS PAID FOR DEFECTIVE PRODUCTS. COYOTE DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES PROVIDED FOR IN THIS LIMITED WARRANTY OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LIABILITY FOR THIRD PARTY CLAIMS AGAINST BUYER FOR DAMAGES. COYOTE'S MAXIMUM LIABILITY WILL BE NO MORE THAN THE AMOUNT PAID FOR THE PRODUCT THAT IS THE SUBJECT OF THE CLAIM. THE LAWS OF SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF CONSEQUENTIAL DAMAGES. UNDER SUCH CIRCUMSTANCES, THE LIMITATIONS AND DISCLAIMERS HEREIN SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.**

**THIS WARRANTY CONTAINS THE ENTIRE WARRANTY AND SHALL BE IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, STATUTORY OR OTHERWISE.**

10. **FORCE MAJEURE**. Seller will not be liable for any failures or delays caused by strikes, labor disputes, or any causes beyond the reasonable control of Seller, including but not limited to, fires, floods, accidents, action of any governmental authority, war, insurrection or riots, or shortages of labor, energy, raw materials, production facilities, or transportation.

11. **GOVERNING LAW AND VENUE**: The parties agree that all questions as to validity, interpretation, and required performance arising out of any contract between them, including but not limited to these Terms, any quotation issued by Coyote or any purchase order submitted by Buyer, are governed by the laws of the State of Texas in the United States. Each party agrees to submit to personal jurisdiction in the State of Texas, and each party agrees that the state and federal courts of Tarrant County, Texas have jurisdiction over any claim or matter arising under this Agreement.