

GENERAL TERMS AND CONDITIONS OF SALE

The following terms and conditions shall apply to sales of all products (the "Products") manufactured and/or distributed by Dean Technology, Inc., ("Seller") and sold to a customer ("Customer").

1. PRICES AND TERMS OF PAYMENT

- a. Publication/Acceptance. Prices of products are published separately. The acceptance of all orders is subject to the prior approval of Seller's credit department.
- b. Price at Time of Shipment. Invoices shall contain prices in effect at the time of shipment.
- c. Taxes. Taxes, including import and export duties and similar fees or expenses (collectively "Taxes") are not included in the selling price. The Customer shall be responsible for and pay all Taxes which apply to each order. The prices of all Products automatically shall be increased by the amount of such Taxes, whether or not a credit for such Taxes is available pursuant to any treaty that now or hereafter may be in effect.
- d. Prices - F.O.B. Point of Shipment. Prices and terms of sale shall be established by Seller from time to time. All prices shall be F.O.B. point of shipment. All prices and terms of sale shall be subject to change by Seller, without advance notice. Notice of any changes in prices or terms of sale shall be posted on Seller's web site. From time to time, the point of shipment may change, subject, however, the (i) consent of Seller and (ii) agreement of Customer to pay for any increases in shipping costs [in advance] that may result from such change.
- e. Time of Payment. All payments for Products are to be made prior to the scheduled date of shipment, unless otherwise agreed to in writing by Customer and an authorized representative of Seller.
- f. Payment - Type of Order. All orders delivered outside the continental United States (an "Overseas Order"), whether the same require regular or expedited shipping or are given with notice of 24 hours or less (orders that require expedited shipping or are placed with notice of 24 hours or less hereinafter referred to as "Emergency Orders" and orders that do not constitute "Emergency Orders" hereinafter are referred to as "Regular Orders") or whether the same are for Products manufactured and/or distributed by Seller on a regular basis ("Standard Products") or on special request from a Customer ("Specialty Products"), shall require payment by wire transfer. Payment for all orders delivered within the continental United States ("Domestic Orders"), whether or not the same constitute Regular Orders or Emergency Orders, and whether the Products constitute Regular Products or Specialty Products, shall be by credit card or other method as Seller shall deem acceptable or upon which Seller and Customer shall agree.

- g. Non-Payment. In the event invoices are not paid in accordance with the policy set forth in these terms and conditions, Seller reserves the right to (i) discontinue further shipments to Customer until all amounts, including finance charges described in the clause (iii) of this paragraph, are paid in full, (ii) terminate any order, (iii) assess a finance charge on the outstanding balance not to exceed the highest rate allowed by law, which finance charge shall be calculated from the date such invoices are due and (iv) require all future orders from Customer to be paid in full, by wire transfer or other means acceptable to Seller, concurrently with the acceptance of such order by Seller.
- h. Quotation Validity. Unless otherwise stated, a quotation price is valid only for thirty (30) days from the date such quotation is provided by Seller.

2. ORDERS

- a. Address. Orders shall be sent to the address set forth below:

Notice/Mailing Address:
Dean Technology, Inc.
P.O. Box 700968
Dallas, TX 75370
Attention: Sales Department
Phone: 972.248.7691
Fax: 972.381.9998

Shipping/Overnight Courier:
Dean Technology, Inc.
3227 Skylane Drive
Carrollton, TX 75006
Attention: Sales Department
Phone: 972.248.7691
Fax: 972.381.9998

Email: info@deantechnology.com (unless otherwise specified)

- b. Acceptance. Orders will be accepted only upon these Terms and Conditions.
- c. Right to Reject Orders. Seller reserves the right to reject any order, even after making a previous quotation therefor or acceptance thereof.
- d. Minimum Order and Shipment. Minimum order and shipment to Customer for (i) Standard Products shall be \$100.00, (ii) Specialty Products and Emergency Orders shall be \$250.00, to the extent such orders constitute Domestic Orders or (iii) \$500 for any orders, whether or not for Standard Products, to the extent such orders constitute Overseas Orders. Seller reserves the right to increase minimum order and shipment requirements for specific Products.
- e. Change Orders.
 - 1. Increased Orders. If Customer wishes to increase any previously submitted order, such increase shall be acceptable, provided arrangements for the final shipment of the final portion of the order have not been made. Any increase in any order shall be subject to any

increased pricing Seller may have instituted since the date of acceptance of the original order.

2. Decreased Orders/Extended Shipment Dates. If Customer wishes either to (i) decrease a previously submitted order for a Domestic Order or (ii) extend the shipment date therefor, such decrease or extension, as applicable, shall be permitted, provided (a) the unshipped products also constitute Standard Products, (b) the request is received by Seller not less than 30 days prior to the originally proposed date of shipping, (c) no shipment date may be extended more than 90 days beyond the originally proposed shipment date, (d) Seller agrees to the decrease or extension, as applicable, and (e) all payment terms set forth in **SECTION 1** above shall apply, notwithstanding the fact that such extended shipment date may exceed the applicable payment terms, unless otherwise agreed to in writing by Seller. All orders must include proposed shipment dates at the time each such order is received. No extension of proposed shipment dates or decrease in order shall be permitted with respect to Specialty Products. If a decrease is requested with respect to any Domestic Order that received a volume pricing discount, the pricing for such Domestic Order shall be revised to reflect the requested decrease.

f. Cancellation of Orders.

1. Standard Products. If Customer cancels an order for Standard Products prior to initial shipment of any portion of such order, Seller may charge Customer Seller's then effective re-stocking fee.
2. Specialty Products. For any Specialty Product or Overseas Order, cancellation charges shall be equal to the sum of (i) the cost of the actual materials purchased, labor and overhead incurred by Seller to (a) manufacture such Specialty Products or (b) modify a Standard Product to cause the same to constitute a Specialty Product, as applicable, plus (ii) 30% of the costs described in clause (i) preceding.
3. Cancellation Restrictions. Notwithstanding the provisions of clauses (1) and (2) above to the contrary, there shall be no cancellation of any order within thirty (30) days of any proposed shipping date. Any pre-paid fees, costs or expenses already received by Seller with respect to any canceled order shall be retained by Seller to compensate Seller for expenses incurred by Seller with respect to such cancelled order.
4. Delivery Schedules. Delivery schedules shall be established by Seller at the time an order is entered into Seller's system. Seller shall use its best efforts to meet Customer's desired shipping date, but shall not incur any liability for any damages, whether incidental, limited,

special, consequential or otherwise, due to any delay or failure to deliver on such date for any reason. Customer hereby acknowledges that delivery information furnished by Seller represents only an estimate of the date for Product shipment.

3. SHIPMENT/DELIVERY

- a. Time of Delivery. The time of delivery set by Seller is an estimated date for shipping from the plants or warehouses of Seller. Seller shall not be liable for any direct, indirect, special consequential, incidental or other damages, including but not limited to bodily harm, death, loss of use, income, profit, or production, increased cost of operation, spoilage of or damage to material or claims for infringement or any intellectual property or trade secrets of any third party (collectively, "Damages") for delays in delivery caused by any reasons beyond its control, including acts of God, terrorist acts, casualty, civil disturbance, labor disputes, transportation or supply difficulties, any interruption at Seller's facilities, or act of any foreign or domestic government or quasi government agency. The time for delivery shall be extended during the continuation of such condition and for such time thereafter as may be necessary to accomplish shipping in accordance with Seller's customary shipping practices.
- b. F.O.B. Shipments. All shipments are F.O.B. Seller's plants or warehouses from which products are shipped.
- c. Packaging/Shipping Carrier. Seller shall determine how to pack and ship products unless specific instructions are given by Customer. Customer shall be liable for any additional costs relating to the compliance by Seller with Customer's special packing and shipping instructions. To the extent such packing and/or shipping instructions from Customer relate to any Overseas Order, Customer shall pay for any excess costs with a wire transfer prior to the commencement, by Seller of any such packing and/or shipping. All requests for special packing or shipping requirements shall be agreed upon between Seller and Customer prior to or concurrently with the placement of the order to which such special packing or shipping requirements apply. Seller reserves the right to (i) reject any order requiring special packing or shipping services, (ii) increase the costs for any such order or (iii) alter the timing for delivery of any such order to Customer.
- d. In Stock Shipment. If any products are to be shipped from in-stock product supply of Seller, the quantity and date of shipment are dependent upon availability of such products at Seller's facility as of the requested date of shipment.
- e. Premium Rate Services. Premium rate services such as express rail or air-freight, etc. will be utilized only (i) when specified by Customer and (ii) upon receipt by Seller of pre-payment therefor, whether pursuant to an authorization of

Seller to utilize Customer's overnight shipping account or otherwise. If Customer does not provide Seller with Customer's overnight shipping account number, then shipping charges for any order shall be (x) added to the invoice for the Products included in such order and (y) paid by Customer in accordance with the payment terms described in **SECTION 1** above.

- f. Quantity Discrepancies. Any discrepancy in shipment quantity must be reported to Seller within five (5) working days of receipt by Customer of the order which is the subject of such discrepancy.
- g. Title/Risk of Loss. Title to all Products shipped to Customer and risk of loss therefor shall pass to Customer when such Products are placed on board at the shipping agent's facilities. Following such placement, Seller shall have no further risk or liability with respect to such Products.
- h. No Charge for Crating. Seller shall not charge Customer for boxing or crating of Domestic Orders, to the extent such boxing or crating is required by any transportation company.
- i. Special Expenses. Cost of special boxing, cartage to steamer or transfer expenses shall be added to the shipping invoice, unless such charges are demonstrated by Customer in writing to be included in the price quoted.
- j. No Insurance. Unless specifically requested otherwise in writing, by delivering an order to Seller, Customer hereby acknowledges there will be no separate insurance purchased to cover the Products that are the subject of such order.

4. RETURNS

- a. Condition. All Products to be returned shall be (i) in a condition suitable for resale by Seller and (ii) subject to inspection by Seller before any return, exchange or credit is accepted or provided, as applicable.
- b. Prior Written Authorization. Prior written authorization must be obtained from Seller before any return is made. Unless otherwise agreed to by Seller, Customer shall prepay all shipping charges related to any such Product returns, except to the extent any such returns are pursuant to authorization by Seller under the warranty described below.
- c. Credit. Products accepted for return by Seller as described above shall be eligible for a credit against the oldest outstanding invoice then due and payable by Customer or, if no such invoice is outstanding then against the next purchase of Products made by Customer. The cost basis for all Products returned for credit to Customer's account shall be the lesser of (i) the price for the returned Product(s) in effect at the time Seller accepts such returns or (ii) the price paid by Customer for the Product being returned.

- d. Specialty Products. Specialty Products may not be returned.

5. WARRANTY

- a. Freedom from Defects. Seller warrants that, subject to the provisions of clause (b) of this **SECTION 5** and to the provisions of **SECTIONS 6, 8, and 9** relating to specifications and Specialty Products, which sections supersede the warranty set forth in this **SECTION 5(a)**, all products will be free from defects in material and workmanship (hereinafter referred to as the “Warranty”) for 12 months from the date of shipment (such 12-month period hereinafter is referred to as the “Warranty Period”). All Warranty claims must be submitted to Seller (i) in writing, (ii) within ten (10) days of the date such defects have been discovered or should have been discovered, and in any event within forty-five (45) days after delivery of the applicable Product to Customer, and (iii) within the Warranty Period. Any Warranty claims that do not comply with the terms set forth in the preceding sentence shall be deemed to have been waived.
- b. Limitation on Remedies. To the extent applicable to Products as described in clause (a) preceding, Seller’s sole responsibility under this Warranty shall be, at Seller’s election, either to repair or replace any allegedly defective Products or parts without charge. This Warranty shall not apply and automatically shall be void with respect to any Product or portion thereof which has been subject to misuse, misapplication, neglect (including but not limited to improper maintenance and storage), accident, improper installation, modification (including but not limited to use of unauthorized attachments), adjustment or repair or for which incorrect industry specifications have been provided or applied by Customer. Items manufactured by others but installed in or attached to any Product are not warranted by Seller, whether or not such installation or attachment was authorized by Seller.
- c. **NO OTHER WARRANTY. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY OBLIGATION OR LIABILITY OF ANY KIND OR NATURE WHATSOEVER. SELLER HEREBY DISCLAIMS ALL OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED.**
- d. No Liability for Damages. Seller shall not be liable for any other Damages, arising in connection with the sale, installation, use of, inability to use, manufacture, distribution, or the repair or replacement of any Products.

6. DESIGNS, DIMENSIONS AND WEIGHT

By delivery of its order, Customer acknowledges that the design, dimensions and weights shown in Seller's catalogs, while sufficiently accurate for most purposes, are subject to variation. If complete accuracy is required, additional information and certification shall be provided by Customer in writing prior to or concurrently with placement of the applicable order.

7. STATUTE OF LIMITATIONS

Any action by Customer pertaining to any Products sold hereunder must be instituted within one year after accrual of the claim upon which the action is based.

8. SPECIALTY PRODUCTS

- a. Price Quotation. If Customer requests any Specialty Product, the price quoted by Seller is applicable only where all specifications with respect to such proposed Specialty Product, including correct tolerance requirements, are provided by Customer, either in writing or by delivery of a sample part to Seller. Seller reserves the right to terminate any Specialty Product order without obligation to either party if, in the sole opinion of Seller, Seller is not able to meet the required specifications. If changes in fabrication or design are required by reason of incorrect information or specifications furnished by Customer or a representative or agent of Customer or deviation from prints or samples submitted, the cost of such changes shall be (i) at Customer's expense, (ii) added to the quoted price, and (iii) unless otherwise directed by Seller, prepaid in full in cash or by wire transfer prior to the commencement by Seller of any such changes.
- b. Payment and Acceptance. Customer shall pay for and accept delivery of all Specialty Products that comply with the specifications therefor provided to Seller.
- c. Waiver; Assignment. In consideration of the agreement of Seller to manufacture any Specialty Product(s), unless otherwise waived by an authorized representative of Seller, Customer hereby (i) waives all worldwide patent and other intellectual property rights, including, without limitation, all exploitation and registration rights, that may be related, whether directly or indirectly, to the design, manufacture, production or distribution of any such Specialty Products, (ii) sets over and assigns to Seller all such rights, including those related to exploitation and registration, (iii) agrees, at the sole cost and expense of Seller, to assist Seller in obtaining all such rights, (iv) represents and warrants to Seller that no such Specialty Product Customer proposes to be manufactured by Seller violates or infringes upon any patent, trademark, copyright, trade secret or other intellectual property right of any third party and (v) agrees to indemnify Seller, together with the officers, directors, shareholders, agents and advisors of Seller (collectively, the "Indemnities") against any loss, cost or expense, including attorneys' fees and/or court, mediation or arbitration costs or expenses that may be incurred by any of such Indemnitees as a result of the breach by Customer of the representation and warranty set forth in clause (iv) preceding.

- d. No Liability. Seller shall not be liable for any Damages which may be suffered or incurred by Customer or any third party as a result of the manufacture, sale or distribution by Seller or use by Customer or any customers of Customer of any Specialty Product.

9. GENERAL

- a. Change Without Notice. These terms and conditions are subject to change without notice. Customer shall bear all responsibility for determining which Products and/or shipments are or may be affected by any such changes.
- b. No Amendment by Customer Forms. These terms and conditions shall not be amended or superseded by any terms or conditions set forth on any purchase order or other form utilized by Customer to place any order, and by placement of and payment for each order, Customer hereby acknowledges that Seller shall not be bound by any such terms or conditions.
- c. Representations and Warranties. By placement of each order, Customer shall be deemed to represent and warrant to Seller as follows, which representations and warranties shall survive delivery of each order:
 - 1. Utilization; Shipment. The Products which are the subject of each order shall be (i) utilized only for the purpose for which they are manufactured and/or purchased and not in violation of any applicable law or treaty and (ii) shipped to and/or utilized in a country only where such shipment is permissible under applicable law and any agreements between either (A) Seller and Customer or (B) Seller and another third party.
 - 2. Use; Resale. The Products which are the subject of such order either are (i) held for resale to third parties who are permitted under applicable law to utilize the same and who will utilize the same in accordance with and not in violation of applicable law, (ii) being utilized to build a Product for an approved third party for an approved use or (iii) being sold through an approved representative of Seller to a third party who is permitted under applicable law and any agreements between Seller and Customer or any other party to acquire such Products and utilize, re-sell or distribute the same.
- d. Indemnity. Customer shall indemnify Seller from and against any and all losses, costs, Damages and liabilities suffered by Seller as a result of any breach by Customer of any of the representations or warranties set forth above.
- e. Specifications. All specifications provided by Customer to Seller shall be (i) in writing and (ii) construed in accordance with standards applicable in Seller's industry at the time in question.

- f. Amendment. Seller has the right to amend these Terms and Conditions or the Warranty at any time and from time to time. All such amendments shall be posted on Seller's web site. Customer shall not receive any other notice of any such amendments.

- g. Placement of Order-Authorization/Undertaking. Placement of any order by Customer shall be deemed to be an (i) authorization by Customer to Seller to perform any credit, background or other investigation with respect to Customer, its business, affiliates, principals and any other person or entity deemed necessary or desirable by Seller and (ii) undertaking by Customer to review Seller's web site on a regular basis so as to keep apprised of any changes in the Terms and Conditions, Warranty and/or Product pricing.