



CS Medical Systems is a brandname for Control Solutions LLC

STANDARD TERMS AND CONDITIONS OF SALE

1. Contract.

(a) These Standard Terms and Conditions of Sale, the provisions below under "Repair or Replacement Under Warranty" and "Return for Credit Policy", plus Control Solutions' quotation, specification and/or acknowledgement of Buyer's order (but excluding any terms or conditions in Buyer's order itself), plus any FAR and DFARS clauses required by law to be incorporated herein as described in Section 1(b) below, constitute the entire agreement between Buyer and Control Solutions with respect to the subject matter set forth herein and therein and are referred to herein as the "Contract". This Contract merges and supersedes all negotiations and agreements between the parties, whether written or oral, that occurred either prior to or contemporaneously with this Contract. This Contract may not be amended or modified except by a subsequent written instrument executed by the parties which expressly amends or modifies the provisions of this Contract. No exceptions, changes or additions to this Contract, in any quotation, specification, acknowledgment or order, will be binding and effective unless approved in writing and signed by an officer of Control Solutions. If Buyer's acceptance of a quotation, proposal or acknowledgment of order, or Buyer's order itself, or any other document or communication of Buyer, contains oral, written, printed or stamped provisions inconsistent with or in addition to the written, printed or stamped provisions of this Contract, the provisions of this Contract shall prevail.

(b) The only Federal Acquisition Regulation ("FAR") clauses and Defense Federal Acquisition Regulation Supplement ("DFARS") clauses that may be incorporated in this Contract are those clauses required to be incorporated by FAR clause 52.244-6 (Subcontracts for Commercial Items) and DFARS clause 252.244-7000 (Subcontracts for Commercial Items and Commercial Components (DoD Contracts)), respectively.

2. Warranty.

(a) Except as otherwise provided in this Section 2, Control Solutions LLC ("Control Solutions") warrants to the original purchaser that Control Solutions products, and the components thereof, will be free from defects in workmanship and materials under normal use for a period of one (1) year from the date of purchase. Control Solutions will, without charge, repair or replace, at its option, any covered defective product or component part upon delivery to Control Solutions, accompanied by a Control Solutions Return Material Authorization (RMA) number. Where expected service life of a product (such as batteries) is less than a year, warranty will only extend through normal expected service life. Due to the specific nature of software products, Control Solutions provides no warranty for its PC based software products.

(b) This warranty extends only to Buyer. This warranty does not apply in the event of negligence, misuse, accident, or abuse of the product, or as a result of alterations or repairs not authorized in writing by Control Solutions. This warranty does not cover any cost of removal or reinstallation. In no case will Control Solutions' responsibility extend to products, components or equipment not of its manufacture.

(c) Notwithstanding anything to the contrary set forth herein, if Control Solutions determines (in its sole discretion) that a product's failure or malfunction is due to one or more of the following conditions, such failure or malfunction is **EXCLUDED** from the warranty provided hereunder:



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- (i) Abuse, misuse, neglect, negligence, or accidental damage*
- (ii) Improper installation, setup, or testing*
- (iii) Use of the product for purposes other than those for which it was designed*
- (iv) Unauthorized attachment, removal or alteration of any part of the product*
- (v) Unusual mechanical, physical, or electrical stress*
- (vi) Modifications or repairs done by parties other than Control Solutions*
- (vii) Exposure to contaminants of any kind*
- (viii) Failure to provide a suitable operating environment*
- (ix) Failure to monitor or operate the product in accordance with applicable seller specifications and good industry practices*

In cases of such excluded failures or malfunctions, Control Solutions will, when possible, make repairs. Under these circumstances, out of warranty repair charges will apply. The repaired components will be covered by Control Solutions' Repair Warranty (see "Repair Warranty" below).

(d) EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 2, CONTROL SOLUTIONS MAKES NO EXPRESS OR IMPLIED WARRANTY THAT ANY PRODUCT SOLD HEREUNDER IS NON-INFRINGEMENT, IS OF MERCHANTABILITY QUALITY, OR THAT THE PRODUCT SHALL BE FIT FOR ANY PARTICULAR PURPOSE. THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE.

(e) CONTROL SOLUTIONS SHALL NOT BE LIABLE TO BUYER OR ANYONE ELSE FOR ANY SPECIAL, INDIRECT, ECONOMIC, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT, ANY BREACH OF THIS CONTRACT OR ANY PRODUCT SOLD UNDER THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, ANY LOSS OR DAMAGE RESULTING FROM THE USE OF THE PRODUCT IN BUYER'S MANUFACTURING PROCESSES OR IN COMBINATION WITH OTHER PRODUCTS, OR ANY LOSS OR DAMAGE RESULTING FROM LOSS OF USE OR COST OF INSTALLATION, OR DAMAGE TO PERSONNEL OR OTHER EQUIPMENT AS THE RESULT OF MISUSE OR A MALFUNCTION OF THE PRODUCT.

3. Assumption of Risk. It is understood that any design or manufacturing verification testing done by Control Solutions is performed as a courtesy and not an obligation of Control Solutions. Control Solutions does not warrant the accuracy of any such testing or provide any other warranty regarding such testing. Buyer is responsible for performing its own verification testing. Placement of an order by Buyer will constitute acceptance by Buyer for component and software design. While every effort will be made by Control Solutions to assure safe and adequate performance of any product or component part thereof, by placing an order for a Control Solutions product or component part, Buyer assumes all risk for failure, and Control Solutions' liability shall be limited to repair or replacement of the product or component part itself, per the warranty terms stated herein. Buyer assumes all risks and liability, and Control Solutions assumes no risk and no liability, with respect to unloading of product sold hereunder, storage, handling, sales and use of the product, and the compliance or noncompliance with all federal and local laws and regulations with respect thereto.



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4. Prices; Payments. Prices shown on any quotation or proposal are given in US\$, F.O.B. Control Solutions' facility, and are valid for 60 days from the date of quotation unless otherwise noted. Any and all shipping charges shall be added to the selling price and shall be paid by Buyer. Prices quoted are based on continuous manufacture for rates of delivery specified. Products are sold as commercial products on a firm fixed price basis. Buyer shall pay all invoices from Control Solutions within thirty (30) days of delivery of the products. If an invoice is not paid timely, Buyer shall pay Control Solutions on demand a late charge of 1.5% per month (or the highest rate permitted by law, if lower) for each payment that is not made, accruing from the due date of the payment.

5. Shipping. All responsibilities and obligations of Control Solutions are completed when Control Solutions delivers the items ordered to a common carrier of Control Solutions' choice or to Buyer's carrier. After delivery to the common carrier, any risk is assumed by Buyer. Quoted shipping dates are approximate.

6. Force Majeure. Control Solutions shall not be liable for any default or delay in delivery due to causes beyond its control, such as acts of God, acts of Buyer, acts of civil or military authority, acts of terrorism, fires, strikes, floods, delays in transportation, government regulation (valid or not), or inability due to causes beyond the control of Control Solutions to obtain necessary engineering talent, labor or materials. In the event of such delay, the delivery shall be extended for a period equal to the time lost thereby.

7. Cancellation. In the event that a contract is cancelled by Buyer, or by Control Solutions because of default by Buyer, then Buyer shall pay Control Solutions for all damages sustained, including, without limitation, payment for partially or totally completed circuit boards or inventory acquired for the purpose of fulfilling said contract at the current applicable price.

8. Penalty Clauses. No penalty clause of any description, in any quotation, specification, acknowledgment or order, will be binding or effective unless approved in writing and signed by an officer of Control Solutions.

9. Limitations of Actions. Any action for Control Solutions' breach of this Contract must be commenced by Buyer within one year after the cause of action accrues, and no such action may be maintained which is not commenced within such period.

10. Infringement. Buyer assumes all risk of patent infringement by reason of any misuse of the product sold hereunder or any use Buyer makes of the product sold hereunder in combination with other products or in the operation of any process.

11. Intellectual Property. Control Solutions shall be the sole owner of all Intellectual Property conceived, developed or otherwise generated in the performance of this Contract by Control Solutions or on behalf of Control Solutions. It is understood that unless otherwise agreed to in writing by Control Solutions, no work or Intellectual Property created by Control Solutions in connection with this Contract shall be considered "Work for Hire". Control Solutions does not grant Buyer any license or other right in any Intellectual Property owned, controlled or used under license by Control Solutions. "Intellectual Property", as used in this Contract, means any legally enforceable rights, under statute or common law, anywhere in the world, in respect of inventive subject matter or original works of authorship, including but not limited to, inventions, designs (whether registered or not), patents, copyrights (including mask works), trademarks and trade secrets, discoveries, improvements, technology, design mask works, technical information, data, software, business information and other information.



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12. Indemnity. Buyer shall defend, indemnify and hold harmless Control Solutions from and against all damages, causes of action, claims, liabilities, expenses (including reasonable attorneys' fees), penalties, personal injuries (including death), environmental damages and tangible property damage caused by Buyer's breach of this Contract, acts or omissions in the handling, transportation, modification, storage or use of the products sold hereunder, negligence, or willful or wanton conduct.

13. Certain Remedies. Control Solutions may recover for each shipment hereunder as a separate transaction, without reference to any other shipment. If Buyer fails to pay any invoice in accordance with the terms of this Contract or is past due in payment of any other amount owing to Control Solutions, Control Solutions may, at its option (and without liability and without prejudice to any other remedies) defer further shipments until all payments owing to Control Solutions by Buyer have been made (in which event Control Solutions may elect to extend the Contract period for a time equal to that for which shipments were so deferred), stop any product in transit, and/or decline further performance of this Contract. If at any time in the judgment of Control Solutions, the financial responsibility of Buyer is impaired, Control Solutions may change the terms of payment and may require advance payment as a condition of shipment.

14. Taxes. All payments under this Contract are exclusive of all applicable taxes and governmental charges (such as duties), all of which shall be paid by Buyer regardless of which party such taxes are imposed upon (with the exception of any taxes computed with regard to Control Solutions' income). In the event Buyer is required by law to withhold taxes, Buyer agrees to furnish Control Solutions all required receipts and documentation substantiating such payment. If Control Solutions is required by law to remit any tax or governmental charge on behalf of or for the account of Buyer, Buyer agrees to reimburse Control Solutions within thirty (30) days after Control Solutions notifies Buyer in writing of such remittance.

15. Title. All sales are F.O.B. Control Solutions' facility. Title to and risk of loss of all product sold hereunder shall pass to Buyer upon Control Solutions' delivery to carrier at Control Solutions' facility whether or not Control Solutions pays all of any part of the freight, and notwithstanding any designation in this Contract of any other F.O.B. point. Control Solutions shall retain a first-priority security interest in and a lien on such product until payment by Buyer of all amounts due Control Solutions from Buyer with respect to such product. Buyer authorizes Control Solutions to file such financing statements or other documents as may be necessary to perfect the security interest.

16. Assignment. This Contract and the rights and obligations of Buyer hereunder shall not be assignable by Buyer, either by act of Buyer or by operation of law, without the prior written consent of Control Solutions, and shall not be deemed an asset of Buyer in, and at the option of Control Solutions shall terminate in the event of, the commencement of any case or proceeding in respect of Buyer under any bankruptcy, insolvency or similar law or any assignment for the benefit of creditors. At the option of Control Solutions, this Contract shall terminate in the event of the insolvency of Buyer. Any purported assignment of this Contract without the prior consent of Control Solutions shall be void.

17. Governing Law and Forum Selection. This Contract and all disputes shall be governed by the internal laws (exclusive of the conflicts of law principles) of the State of Illinois. The United Nations Convention on Contracts for the International Sale of Goods (CIGS) shall not apply. The parties consent to the exclusive and sole jurisdiction of the federal court located in Chicago, Illinois or the state court located in Cook or Kane Counties, Illinois with respect to all litigation, claims, causes of action, demands, controversies or disputes among the parties.



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The party prevailing on substantially all of its claims in litigation shall be entitled to an award of its costs, including reasonable attorneys' fees.

18. Non-Waiver. Neither party's waiver of any breach of this Contract or failure to enforce any of the terms or conditions of this Contract at any time shall in any way affect, limit or waive such party's right thereafter to enforce strict compliance with every term and condition hereof.

19. OFAC Lists. None of Buyer or any of its officers, directors or employees is on any list of prohibited countries, individuals, organizations or entities that is administered or maintained by the U.S. Office of Foreign Assets Control ("OFAC"), including but not limited to the List of Specially Designated Nationals and Blocked Persons, or on any similar list not maintained by the OFAC. Buyer has and will maintain a process to ensure compliance with this Section 19.

20. Severability. If any provision of this Contract shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Contract. The entire Contract shall be construed as if not containing the particular invalid or unenforceable provision and the rights and obligations of each party shall be construed and enforced accordingly.

21. REPAIR OR REPLACEMENT UNDER WARRANTY

Upon receipt of defective unit(s), Control Solutions will inspect, diagnose and, if under warranty, repair or replace (at Control Solutions' sole discretion) the unit(s).

Control Solutions warrants that all repaired component(s) or unit(s) shall be free of defects in material and workmanship for the unexpired portion of the original products' warranty or six (6) months, whichever is longer. The repair warranty period starts 10 calendar days from the date of shipment from Control Solutions.

Any replacement unit(s) furnished at no cost in fulfillment of the new product warranty is warranted only for the unexpired portion of the original products warranty or six (6) months, whichever is longer. Any services or repair outside of this limited warranty shall be at Control Solutions' rates and terms then in effect.

22. RETURN FOR CREDIT POLICY

To receive credit for standard products, the product must be unused, in original packaging, and in resalable condition. Control Solutions will make that determination after evaluating the returned product. Control Solutions may refuse credit for any of the following reasons:

- (a) Abuse, misuse, neglect, negligence, or accidental damage*
- (b) Improper installation, setup, or testing*
- (c) Use of the product for purposes other than those for which it was designed*
- (d) Unauthorized attachment, removal or alteration of any part of the product*
- (e) Unusual mechanical, physical, electrical stress, or scratches or dents*
- (f) Modifications or repairs done by parties other than Control Solutions*
- (g) Exposure to contaminants of any kind*



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(h) Failure to provide a suitable operating environment

(i) Failure to monitor or operate the product in accordance with applicable seller specifications and good industry practices

Control Solutions is under NO obligation to accept RMA's for wrongly ordered goods. Control Solutions may consider exceptions based on individual situations. A minimum 15% and up to 40% restocking fee will apply. Products beyond 30 days in age are not eligible for consideration. If within 7 days of product receipt the purchaser notifies Control Solutions that the product is defective or damaged, Control Solutions may waive the restocking fee. The restocking fee may also be waived for the following reasons:

(a) An incorrect product shipped by Control Solutions

(b) A unit identified as an evaluation unit in our Product Tracking System is returned