

NPM - SALES TERMS AND CONDITIONS

1. Definitions: "Buyer" means the individual or entity purchasing Seller's Products. "Seller" means Next Phase Measurements LLC, a California corporation, and its affiliated entities by or through which the Products are sold to Buyer. "Products" means all materials, goods, services and/or work to be provided to Buyer by Seller, regardless of type (including chambers and shielding). "Contract" means the document or documents together constituting the agreement between Buyer and Seller for the purchase, sale and installation of the Products, and includes these Terms and Conditions.

2. Applicability: These Terms and Conditions apply to all sales of Products by Seller. Buyer's order shall be deemed to incorporate, without exception, all the Terms and Conditions hereof notwithstanding any order form of Buyer containing additional or contrary terms or conditions. ALTHOUGH BUYER MAY SUBMIT PURCHASE ORDERS OR OTHER DOCUMENTS ON BUYER'S FORMS, BUYER EXPRESSLY AGREES THAT SELLER'S ACCEPTANCE OF SUCH FORMS IS SOLELY FOR BUYER'S CONVENIENCE AND THAT ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS SET FORTH ON ANY PURCHASE ORDER OR OTHER DOCUMENT SUBMITTED BY BUYER SHALL NOT APPLY AND SHALL BE VOID AND OF NO EFFECT. No acknowledgment by Seller of, or reference by Seller to, or performance by Seller under, any purchase order or other document of Buyer shall be deemed an acceptance by Seller of any term or condition which is additional to or different from these Terms and Conditions unless such additional or differing term or condition is set forth in a document generated by Seller or expressly agreed to by Seller in writing.

3. Currency and Taxes: Stated prices are in U.S. Dollars and do not include any federal, state, or local sales, use, excise, gross receipts, import, export, transport, value-added or other taxes unless specifically stated in writing. Any applicable tax exemptions must be made available to Seller prior to invoicing or such taxes will be charged for the jurisdiction of delivery destination. Any exemption certificates must correlate with the jurisdiction of delivery destination. When Seller is required to collect taxes from Buyer, such taxes will be added to invoice prices. In the event Seller does not collect taxes from Buyer and Seller is later required to pay such to any taxing authority, Buyer will immediately remit to Seller reimbursement for the uncollected/unpaid but owed taxes; alternatively, if requested by Seller, Buyer shall remit directly to the requesting tax authority payment for such previously uncollected/unpaid but owed taxes.

4. Payment Terms: Unless otherwise specified by Seller in the Contract, Products shall be invoiced as of shipment date, and payment shall be due within 30 days of invoice date. Interest equal to the lesser of one and one-half percent (1.5%) per month or the maximum interest rate allowable under applicable law shall be charged by Seller to Buyer on invoice amounts not paid within 30 days of invoice date. In the event Buyer fails to pay timely and Seller implements collection efforts, Buyer shall be responsible and liable for all Seller's collection expenses incurred, including reasonable attorneys' fees. Notwithstanding stated payment terms, if Seller shall at any time doubt Buyer's financial stability, Seller may demand adequate assurance of due performance or decline to make any further shipments except upon receipt of security or cash payment in advance.

5. Delivery Dates; Shipment Terms: Delivery dates shall be as set forth in Seller's proposal. It is agreed that delivery of Products 3 days prior to and/or 5 days following the agreed upon delivery date shall be deemed on time. Unless otherwise agreed by Seller in writing, delivery shall be at Seller's facility. Shipping shall be Ex Works Seller's facility (Incoterms 2010).

6. Export: If the Products are to be exported, this order is subject to Seller's ability to obtain export licenses and other necessary papers within a reasonable period. Buyer will be responsible for all export and import charges and consular and customs declarations and will be responsible for penalties resulting from errors or omissions thereon. Buyer agrees that it shall not re-export the Products or any goods or items which incorporate the Products if the re-export would violate United States export laws or the laws of any other country from which they are re-exported.

7. Acceptance: Acceptance shall be accomplished using Seller's applicable test procedures, or specific procedures Seller develops in cooperation with Buyer. If installation is not included in Seller's Scope of Work, acceptance tests will be conducted at Seller's plant. If installation is included in Seller's Scope of Work, acceptance shall occur at the installation site upon demonstration of the applicable test procedures or if the Product is otherwise operating according to specifications. If mutually scheduled installation is delayed by Buyer for more than thirty (30) calendar days after the scheduled date, Buyer shall be deemed to have accepted the Product on the thirty-first (31st) day after the scheduled date. Buyer is solely responsible for proper storage and protection of items awaiting installation. Storage charges may be assessed to Buyer for Product that has been delayed more than thirty (30) days beyond the scheduled shipment date.

8. Warranty: Seller warrants that Products shall be delivered free from defects in material, workmanship and title under ordinary and intended use and will conform in all material respects to its published specifications, current at the time of shipment, and that any included services will be performed in a professional, workmanlike manner. The warranty period begins on the date of delivery for components for which installation is not included, or site acceptance if included, and extends for two years. Seller offers no warranty period for RF cables. Seller will repair or replace, at its option, any item found to be defective upon Seller's examination after return to Seller's factory within the warranty period. Buyer shall be responsible for all shipping charges and all applicable duties and taxes for products returned to the Seller for warranty service. Repaired or replaced parts shall be warranted for the remainder of the warranty period. The warranty is void if the failure is found to be the result of damage in shipment; improper storage or installation, improper maintenance or use by Buyer; abnormal operating conditions; attempted modification or repair by Buyer; or an act of God. Repairs made after expiration of the warranty period are warranted for ninety (90) days for parts and labor.

9. Claims: Upon Product delivery, Buyer shall promptly inspect all Products. No claims for shortages will be allowed unless shortages are reported to Seller in writing within 10 days after delivery. No other claims against Seller will be allowed unless asserted in writing within 30 days after delivery (or assembly, if the Products are to be assembled by Seller) or, in the case of an alleged breach of warranty, within the warranty period as defined in Seller's applicable Standard Warranty Policy.

10. LIMITATION OF LIABILITY: IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR AS A RESULT OF, THE SALE, SERVICING, ASSEMBLY, USE, LOSS OF USE OR FAILURE OF THE PRODUCTS OR ANY PART THEREOF. IN NO EVENT SHALL SELLER'S LIABILITY UNDER ANY CLAIM MADE BY BUYER EXCEED THE PURCHASE PRICE OF THE PRODUCTS WHICH BUYER ALLEGES GIVE RISE TO DAMAGE CLAIMS.

11. Force Majeure: Seller shall not be liable for any default or delay in performance caused by acts of God, war, terrorism, fire, flood, strikes, labor disputes, delay or unavailability of labor, material or equipment used in the manufacture of the Products, or from any other cause which is beyond Seller's control. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

12. Buyer's Property; Infringement Claims: Buyer shall be responsible for providing insurance for damage or loss to any Buyer goods or materials which are provided to Seller for use in connection with this order. Where any Product is manufactured from patterns, plans, drawings, or specifications furnished by Buyer ("Buyer Specifications"), Buyer shall defend and indemnify and hold Seller harmless against all loss, damage, and expense arising out of any infringement claim based on Seller's use of such Buyer Specifications. Upon Seller's request, Buyer shall, at Buyer's sole cost and expense, retain counsel reasonably acceptable to Seller to appear on Seller's behalf and assume the defense of any litigation arising out of any such claim.

13. Site Conditions: Buyer shall be responsible for the structural integrity and the clean, asbestos-free and safe status of the work area and structure in which Seller will perform any services and deliver or install any Products. Some installation may involve welding or the use of materials which necessitate ventilation for safety, in which case Buyer shall provide adequate ventilation and assure that the project area is free and clear of debris, dirt and obstruction. Buyer shall provide at its sole expense, temporary lighting and power for the operation of hand tools and welding equipment, if necessary, and an accessible dumpster for the disposal of debris. Seller shall clean up any materials, debris or obstructions created by Seller. Installation of the Products by Seller is based upon Seller's access close to the site and the perimeter of the project site, together with an adequate amount of weather-tight storage space on the project site.

14. Changes and Termination: Either Party may at any time propose changes in the schedule or scope of Products being delivered. Seller is not obligated to proceed with any change until both parties agree in writing. The scope, price, schedule and other provisions will be equitably adjusted to reflect additional costs or obligation incurred by Seller resulting from such agreed change. Seller reserves the right to deliver a Product that bears a different, superseding or new model, part or version number compared to the model, part or version number listed in the Contract if the replacement Product does not affect the Contract price and has at least equivalent functionality and performance compared to the ordered Product. If Buyer, by act or notice, wishes to terminate or suspend performance of this Contract, Buyer shall immediately pay Seller for all Product completed or progress achieved at the time of termination or suspension plus any additional fees and equitable adjustment in connection with such termination or suspension.

15. Limitation on Assignment: Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other except that Seller shall have the right without Buyer's consent to (a) subcontract any portion of its obligations to any party, or (b) assign all its rights and obligations to any entity with which it is affiliated, into which it shall be merged, with which it shall be consolidated, or by which it, or all or substantially all of its assets, shall be acquired.

16. Severability: In the event that any provision hereof shall violate any applicable statute, ordinance, or rule of law, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

17. Compliance with Law: In the performance of the Agreement, Seller and Buyer agree to comply with all applicable local, state and federal laws and executive orders and regulations. Each Party further agrees to indemnify the other Party against any loss, cost, damage or liability by reason of such Party's violation of this section.

18. Governing Law; Arbitration; Venue: The rights and remedies of the parties under these Terms and Conditions or otherwise with respect to the Contract or the Products shall be governed by and construed in accordance with the laws of the State of California (without regard to principles of conflicts of laws).

19. Waiver: Waiver by Seller of any default or breach of these Terms and Conditions or the other Contract documents shall not be construed as a waiver of any other or continuing breach; and failure to exercise any right arising from any default or breach shall not be deemed a waiver of such right, which may be exercised at any subsequent time.