

Holzworth Instruments, Inc. (Holzworth) sells product only under the condition that Buyer fully accepts the Terms and Conditions of Sale stated in this document, unless otherwise specifically agreed to in writing by Holzworth. In the absence of an alternate purchase agreement or contract, the Buyer's acceptance of any goods or services shall be deemed acceptance of these Terms and Conditions of Sale.

**1. PRODUCT PRICING, SHIPPING and EXPORT FEES**

- a) All sales prices are in US dollars (\$). Holzworth reserves the right to change prices without notice, with exception to prices provided in a written, unexpired quotation, as provided by Holzworth.
- b) All price quotations expire thirty (30) days after the date of the written quotation. All prices quoted are valid only if Buyer's requested delivery date, including any change orders, is within six (6) months of the date on which the original order is accepted.
- c) Unless otherwise stated in writing by Holzworth, all prices quoted are exclusive of all taxes (except taxes levied against Holzworth's income), including state and local use, sales, property, and similar taxes. Buyer is solely responsible for and agrees to pay such taxes.
- d) All products will ship standard freight via FedEx, UPS or DHL. Free on Board (FOB) point is the Holzworth Shipping dock in Boulder, CO, USA. All additional freight charges are the responsibility of the Buyer, including, but not limited to accelerated shipping fees, insurance, customs, duties, taxes, and broker fees. If non-standard shipping chargers apply, freight will be pre-paid by Holzworth and added to the invoice. Buyer has the option to provide a shipping company account number prior to date of shipment.
- e) All export orders are subject to export handling and shipping fees. Export orders requiring an Export License will be subject to an additional fee. Any additional fees will be outlined on formal product quotation and must be included in the product purchase order to be valid.
- f) All tooling or engineering charges included in an invoice shall not imply ownership of the tools or designs by the Buyer. Proprietary materials are covered in section 10 of these terms and conditions.

**2. PAYMENT and SECURITY TERMS**

- a) All payments are to be made in US dollars (\$). Holzworth term of payment is net 30 days from date of invoice with proper credit approval. The invoice date will not be earlier than actual date of shipment.
- b) If the proper credit cannot be established or verified for the Buyer, the term of payment is that the balance be 100% paid in full prior to shipment.
- c) If payment is not received by Holzworth within the net 30 day period, any unpaid balance shall commence to bear interest at the rate of eighteen percent (18%) per annum or the highest rate allowed by law from the 31st day. Holzworth reserves the right to change the credit terms at any time.
- d) If the Buyer is delinquent in the payment of any sum due Holzworth, after ten (10) days from the date of written notice to Buyer, then Holzworth is not obligated to continue performance under any agreement with the Buyer.
- e) Buyer hereby grants, and Holzworth reserves, a purchase money security interest in each product purchase, for the amount of its purchase price. Payment in full of the purchase price of any product purchased hereunder shall release the security interest on that product.

**3. SHIPPING DATES, TITLE TRANSFER and RISK OF LOSS**

- a) All delivery dates are estimated and are dependent in part upon prompt receipt of all necessary information to service an order. Holzworth will make all reasonable efforts to meet the delivery date(s) quoted or acknowledged. Holzworth is not liable for failure to meet any quoted or acknowledged delivery date(s). Holzworth is not liable for any premium transportation or other costs or losses incurred by Buyer as a result of Holzworth's inability to deliver product in accordance with Buyer's requested delivery date(s).
- b) All shipments are made Free on Board (FOB) from the Holzworth shipping dock in Boulder, CO. Title to the products (except software and documentation) and risk of loss shall pass to Buyer at the FOB point. Title to software products and documentation will remain with Holzworth. Shipments are insured with the carrier only when requested by the Buyer. Holzworth will prepay the freight and insurance charges and include them on the invoice.
- c) Unless otherwise agreed to in writing by Holzworth, all products shall be packed for shipment and storage in accordance with standard commercial practices. All packing shall conform to requirements of carrier's tariffs.
- d) Holzworth reserves the right to send partial shipments against an order for multiple products. Partial shipments shall be invoiced as made, and payments, therefore, are subject to the terms of payment noted in section 2 of these terms and conditions. Holzworth reserves the right to make shipments in advance of the scheduled delivery date, unless the Buyer specifically requests in writing that early shipments not be made.

**4. ORDER OF PRECEDENCE**

- a) Acceptance by Buyer is limited to these Terms and Conditions excepting when they are superseded by those appearing in an official Holzworth quotation or purchase agreement, which is executed between Holzworth and the Buyer. Buyer's additional or differing terms and conditions shall not apply.
- b) Except as set forth in Section 4a, Buyer's purchase of Holzworth products represents acceptance of Holzworth's Terms and Conditions of Sale, which constitute the entire understanding between the parties and supersede any previous communications, representations, or agreements by either party, whether verbal or written. No change or modification of these Terms and Conditions shall be valid or binding on either party unless in writing and signed by an authorized representative of each party.

**5. CHANGE ORDERS and VARIATIONS**

- a) If the Buyer submits a change order less than thirty (30) days prior to scheduled shipment, change order may cause a delivery delay for which Holzworth is not responsible.
- b) Any change in delivery dates caused by the Buyer requesting an extended delivery date of greater than sixty (60) days from Buyer's original order will constitute a new order for the affected products. Buyer may be required to pay an adjusted unit price based on the quantity of all goods were acknowledged by Holzworth under the original order. The most current product price and volume discounts will be applied to the new order.

**6. ORDER CANCELLATIONS**

- a) For standard products and services, the Buyer may terminate or cancel its order no less than thirty (30) days advance written notice from the original scheduled shipment date. Cancellation charges may apply, which would take into account expenses already incurred and commitments already made by Holzworth, including but not limited to: raw materials, work in process, and finished goods. For the purposes of this section, the date of termination or cancellation shall be the date on which the written notice of termination is received by Holzworth.
- b) If Buyer cancels an order for custom products at any time after the order has been acknowledged by Holzworth, the Buyer may be subject to an additional charge following the same rules in section 6a.
- c) For products or services ordered and acknowledged on a Non-Cancelable, Non-Returnable order, Buyer cannot cancel or return product without written approval by Holzworth.
- d) Holzworth Instrumentation reserves the full right to cancel any order with proper notification to the customer.

**7. PRODUCT SPECIFICATIONS**

- a) Product specifications are applied at the time of receipt of the Buyers' purchase order. Holzworth reserves the right to change specifications at any time without notice and without incurring any obligation to incorporate new features in products previously sold.
- b) Custom product specifications are agreed to by Holzworth and the Buyer.

**8. WARRANTY REPAIR**

- a) The warranty period for each product is specified within its respective specification sheet. The warranty period begins on the FOB date of shipment from Holzworth.
- b) Specified product warranty period assumes 100% full power operation within the limits of the product specification for complete 24 hours of operation per day, 7 days a week, for the full warranty period as specified.
- c) All product repairs and maintenance must be performed by Holzworth. If product has been tampered with or modified in anyway, the warranty is invalidated.
- d) Holzworth reserves the right to invalidate the warranty for any products that have been tampered with, used improperly or are damaged by causes external to the products, including (without limitation) shipping damage, power failure, fire, or accident or catastrophe of any nature.
- e) All warranty returns must be authorized by Holzworth. User must obtain a Return Material Authorization (RMA) number prior to shipment to Holzworth.

**9. POST WARRANTY REPAIR**

- a) For any post-warranty repair service, the user must return the product to Holzworth in Boulder, CO, USA. User must acquire a Return Material Authorization (RMA) number prior to shipment to Holzworth.
- b) The Buyer shall prepay all shipping charges, custom broker fees, duties, and taxes. Holzworth will refuse any collect shipments.
- c) Holzworth will provide end user with an estimate for repair costs on all post warranty service. The Buyer must approve estimated repair costs with a purchase order before repairs will be performed. Estimates do not guarantee final cost of repair.
- d) Holzworth reserves the right to refuse repair on any products that have been tampered with, used improperly or are damaged by causes external to the products, including (without limitation) shipping damage, power failure, fire, or accident or catastrophe of any nature.
- e) Holzworth will pay for the return shipping of warranty repaired products per section 1d of these terms and conditions.

**10. PROPRIETARY MATERIALS**

- a) Holzworth has exclusive ownership of all specifications and designs in addition to any other intellectual property created by Holzworth in the course of providing products the to Buyer.
- b) All Holzworth copyrighted materials (including software and printed documentation) and other proprietary materials (including designs and specifications) may not be copied without the written consent of Holzworth. Holzworth grants Buyer a nonexclusive license to use copyrighted and other proprietary materials only when operating the associated product manufactured by Holzworth.
- c) Buyer may transfer copyrighted and other proprietary materials only with the complete transfer of the associated product which was supplied by Holzworth and is subject to the confidentiality obligations.

**11. GOVERNING LAW and JURISDICTION**

- a) This agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado. Any dispute arising from this agreement shall be subject to the jurisdiction, and Buyer consents to such jurisdiction and venue, of the courts within the State of Colorado.

- b) All parties disclaim the applicability of the 1980 U.N. Convention on the International Sale of Goods.
- c) These terms and conditions supersede all prior negotiations or offers, written or oral.

**12. EXPORT CONTROLS**

- a) If the US Department of Commerce determines that an export license is required for the export of any Holzworth products, the purchase orders for the product must be accompanied by a properly completed US form ITA-629, "Statement by Ultimate Consignee and Purchaser" and/ or an International Import Certificate issued by the government of the importing country, as applicable. Holzworth will require the completion of these documents in order to apply for an export license. The export shipping dates quoted are contingent upon receipt of an export license.
- b) Buyers purchasing Holzworth products inside the USA with the intention to export, assume all responsibility for obtaining any required export authorization.
- c) Buyer shall not export, re-export, or transfer technical data or products supplied by Holzworth, directly or through other parties, to any country or user to which such export, re-export, or transfer is restricted by United States.

**13. FORCE MAJEURE**

All orders accepted by Holzworth are subject to postponement or cancellation for any cause beyond reasonable control, including without limitation: inability to obtain manufacturing materials, labor strikes, fire, flood, and other acts of God; war, acts of terrorism, civil insurrection, and other disturbances; production or engineering difficulties; and governmental regulation, orders, directives, and/or restriction.

**14. MISCELLANEOUS**

- a) This agreement may be amended only in writing, signed by an authorized representative of each party.
- b) In the event the end user is not the purchasing party (direct Buyer), end user agrees to and is subject to the terms and conditions contained in this document.