

PKC
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Fountain Valley, CA 92708

TERMS AND CONDITIONS OF SALE

All quotations and sales by Mustard Seed Technologies, Inc. dba **PKC** are subject to these terms and conditions:

1. Except as otherwise set forth on a PKC Quotation: Terms of payment are net 30 days from invoice date; prices are FOB PKC's facility; and prices do not include any taxes, freight, handling, duty or other similar charges, payment of which will be the sole responsibility of customer. Prices are conditioned upon timely payment and any past due balance will accrue interest at the monthly rate of one and one-half percent. Freight charges may be constructed on the basis of standard carrier tariffs and may not reflect actual transportation costs. PKC reserves the right to modify terms prior to shipment, require payment in advance, or delay or cancel any shipment or order by reason of customer's creditworthiness or should customer fail to fulfill any obligation when due. PKC shall have the right to deliver all goods covered hereby at one time or in portions from time to time, within the time for delivery provided in such order.

2. In the absence of prior agreement as to shipping, PKC may select a carrier for the benefit of customer without any liability to PKC. PKC's responsibility for any loss or damage ends, and title passes, when products are delivered to the carrier, to customer, or to customer's agent (including, without limitation, any test house or value added service provider), whichever occurs first. Customer will pay for storage charges if products are held by PKC at customer's request pending instructions or rescheduled delivery. **INSPECT ALL SHIPMENTS IMMEDIATELY UPON RECEIPT.** Missing cartons, obvious damage to any carton or incorrectly shipped product should be noted on the delivery receipt before signing. Damage or loss should be reported at once to the carrier and an inspection requested.

3. PKC warrants those products assembled or customized by it against defects caused solely by faulty assembly or customization for 90 days after delivery. All other products, and the components and materials utilized in any assembled or customized products, are covered by, and subject to, the terms, conditions, and limitations of the manufacturer's standard warranty, which warranty is expressly in lieu of any other warranty, express or implied, of or by PKC or the manufacturer. Customer's exclusive remedy, if any, under these warranties is limited, at PKC's election, to any one of (a) refund of customer's purchase price, (b) repair by PKC or the manufacturer of any products found to be defective, or (c) replacement of any such product. Customer acknowledges that except as specifically set forth or referenced in this paragraph, **THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY PKC OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. PKC ASSUMES NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR MANUFACTURER'S PRODUCT SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO PKC BY OR ON BEHALF OF CUSTOMER.** Use of the customer's part number on this document or on any products is for convenience only and does not constitute any representation by PKC with respect to the performance, specifications, or fitness of any part for any purpose.

4. PKC retains a purchase money security interest in all products sold by PKC to customer, and in the proceeds of any resale of such products, until the purchase price and any other charges due to PKC have been paid in full. Customer agrees permit PKC to file any financing statement, including, but not limited to a UCC-1. Upon any breach by customer of these terms and conditions, PKC will have all rights and remedies of a secured party under the Uniform Commercial Code, which rights and remedies will be cumulative and not exclusive. Customer is responsible for all costs and expenses incurred by PKC in collecting any sums owing by customer (which may include, but are not limited to, collection agency and reasonable attorneys' fees). If PKC incurs costs collecting on any judgment arising out of customer's breach, customer will be responsible for them, and this provision will survive the entry of any such judgment. PKC shall have the right to offset any sum owed by Customer to PKC against any sum owed by Customer to PKC. All transactions are governed by the laws of the State of California. The parties consent to venue and personal jurisdiction in the applicable Federal or state court, located in Orange County, California. The parties waive any right to trial by jury.

5. Products are deemed accepted by customer unless customer notifies PKC within 10 days of delivery of product shortages, damage or defect. No returns may be made for any reason without a Return Authorization Form issued by PKC. . Requests for returns or exchange must be made in writing, by e mail or by calling PKC (Monday - Friday 9 a.m. - 5 p.m. PST at (714) 556 7007 within six (6) days receipt of merchandise. A copy of your invoice and the reason for the return will be required. If the request is approved, a return merchandise authorization number will be issued and this number must be referenced on the outside of the sealed cases. All returned merchandise must be shipped freight prepaid, sealed cases and complete with all packaging material and unused. Products returned without a return merchandise number and/or not prepaid will be refused by PKC. PKC reserves the right to charge customers a handling fee for service of non-defective merchandise returned. If customer refuses to accept tender or delivery of any products or returns any products without authorization

from PKC, such products will be held by PKC awaiting customer's instruction for 20 days, after which PKC may deem the products abandoned and dispose of them as it sees fit, without crediting customer's account.

6. PKC will not be liable for any failure or delay in its performance or in the delivery or shipment of products, or for any damages suffered by customer by reason of such failure or delay, when such failure or delay is caused by, or arises in connection with, any fire, flood, accident, terrorism, riot, earthquake, severe weather, war, governmental interference or embargo, strike, shortage of labor, fuel, power, materials or supplies, delay in delivery by PKC's suppliers or any other cause or causes beyond PKC's reasonable control. PKC reserves the right to cancel without liability any order, the shipment of which is or may be delayed for more than 30 days by reason of any such cause. PKC reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of, any product which is in short supply.

7. All quotations and sales are made only upon these terms and conditions and those on a PKC Quotation. This document, and not any purchase order or other customer document (which, if construed to be an offer is hereby rejected), will be deemed an offer or counter-offer and is a rejection of any other additional terms or conditions. Customer, by accepting any products, making any payments or ordering any products having previously received these terms and conditions, will be deemed to have assented to these terms and conditions, notwithstanding any terms contained in any prior or later communication from customer and whether or not PKC will specifically or expressly object to any of customer's terms. PKC's failure to object to any document, communication or act of customer will not be deemed a waiver of any of these terms and conditions. Any addition or change to these terms and conditions must be specifically agreed to in writing by a duly authorized officer of PKC before becoming binding on PKC, otherwise any proposal for additional or different terms, or any attempt by customer to alter any of the terms of this document shall not operate as a rejection of this offer and this offer shall be deemed accepted by customer without its additional or different terms

8. If customer's order is placed under a contract with the United States Government, PKC agrees to comply with those contract provisions and regulations with which, pursuant to law, it must comply and of which customer has, at the time of order placement, placed PKC on notice. In no event will United States Government Cost Accounting Standards apply. All rights in technical data and software owned or licensed by PKC or the manufacturer are hereby reserved and deemed restricted or limited. No provision of customer's contract with the government will be binding on PKC or the manufacturer except as expressly set forth in this paragraph.

9. Unless specifically otherwise agreed to in writing by PKC, customer acknowledges that products sold by PKC are not intended for and will not be used in life support systems, human implantation, nuclear facilities or systems, or any other application where product failure could lead to loss of life or injury or catastrophic property damage. Customer will indemnify and hold PKC harmless from any loss, cost or damage resulting from customer's breach of the provisions of this paragraph.

10. Any or all products may be subject to export or resale restriction or regulation, and customer acknowledges that it will comply with such regulations or restrictions. Any or all products purchased may have been imported. Country of origin information is as provided to PKC by its suppliers and is, where applicable, located on the products themselves or the supplier's innermost packaging thereof. No representation is made with respect to country of origin, unless otherwise stated in the information supplied to customer.

11. Except for the warranty coverage referenced in paragraph 3, above, NEITHER PKC NOR ITS SUPPLIERS WILL HAVE ANY LIABILITY OR OBLIGATION TO CUSTOMER OR ANY OTHER PERSON FOR ANY CLAIM, LOSS, DAMAGE, OR EXPENSE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE INADEQUACY OF ANY PRODUCTS FOR ANY PURPOSE, BY ANY DEFICIENCY OR DEFECT IN ANY PRODUCT (WHETHER OR NOT COVERED BY ANY WARRANTY), BY THE USE OR PERFORMANCE OF ANY PRODUCTS OR BY ANY FAILURE OR DELAY IN PKC 'S PERFORMANCE HEREUNDER, OR FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR LOSS OF BUSINESS OR PROFIT, WHETHER OR NOT CUSTOMER WILL HAVE INFORMED PKC OF THE POSSIBILITY OR LIKELIHOOD OF ANY SUCH DAMAGES.

12. The performance of any value-added service will void the manufacturer's warranty and render products non-returnable. Orders incorporating such services are, accordingly, non-cancelable and the products are non-returnable. Any third party value-added service provider is deemed to be an agent of customer.

13. No order may be cancelled, rescheduled or reconfigured without PKC's prior written authorization and, in such event, customer will be liable to PKC for any additional costs and expenses incurred by PKC, including restocking charges.

14. Prices are subject to change by PKC upon customer rescheduling or reconfiguration of orders. PKC reserves the right to increase the prices of any and all products ordered by customer, whereupon, customer may cancel the undelivered portion of any affected order by delivering written notice to PKC prior to the shipment thereof and within 10 days of its receipt of notice of the price increase.

15. This document contains the entire and only agreement between the parties with respect to products ordered, and there are no other promises, representations, or warranties, either expressed or implied. The provisions of this document shall not be changed or modified except for an instrument in writing signed by the parties hereto. Any assignment of this document and performance by the parties hereunder by customer shall be void without PKC's consent.

16. PKC assumes no responsibility for any errors that may occur in its printed advertising material. Any product recommendation is not binding and shall not eliminate customer's responsibility to verify the suitability of the products for their particular application. By placing an order with PKC, customer hereby represents and warrants to PKC that customer has not relied on any statements by the PKC's personnel, and that customer has independently determined through his own personal knowledge, that the products offered are compatible and suitable for the application for which intends.

17. The invalidity, in whole or in part, of any provision of this document shall not affect the validity or enforceability of any other of its provisions.

18. PKC shall have no liability of any kind to customer with respect to any actual or alleged infringement of any United States or foreign patent, trademark, copyright or similar right by any party.

COMPANY NAME

Customer Representative Signature

Customer Representative Print Name

Title

Date

PKC Representative Signature

PKC Representative Print Name

Title

Date