

## **CUSTOMER TERMS & CONDITIONS**

The following are the terms and conditions ("Terms and Conditions") for the sale of products and or services ("Products and or Services") by CALPAK USA, Inc. ("CALPAK USA") to CALPAK USA's customers ("Customers").

### **1. ACCEPTANCE AND CANCELLATION OF ORDERS:**

Customer must provide a written Purchase Order to CALPAK USA along with the signed correlating CALPAK USA provided quotation. All orders are subject to acceptance in writing by CALPAK USA or a duly authorized agent of CALPAK USA. Any written acknowledgement of receipt of an order shall not, in and of itself, constitute such acceptance. All orders to CALPAK USA are non-cancelable, non-returnable, non-refundable, and non-exchangeable. In the event of cancellation or other withdrawal of an order for any reason by Customer, Customer shall also be held liable for the entire quotation provided to Customer, a 35% cancellation fee, and all expenses incurred and commitments made by CALPAK USA, and shall be paid by Customer to CALPAK USA. Customer requests to reschedule are subject to acceptance by CALPAK USA in its sole discretion. Orders may not be canceled or rescheduled after the order has been submitted by CALPAK USA to the shipment carrier. CALPAK USA reserves the right to allocate sales and limit quantities of selected Products and or Services among its customers in its sole discretion. Product and Services specifications and availability are subject to change without prior notice.

### **2. WARRANTY & RETURNS:**

CALPAK USA will warranty only its workmanship based services on the provided signed off schematic(s), bill of material(s), component placement, net list, and any firmware or software written by CALPAK USA. Customer must notify CALPAK USA within 7 days from date of receipt of shipment of any defective product. (See CALPAK USA'S LIMITED WARRANTY for further information.) If CALPAK USA agrees to accept a return, return freight charges must be prepaid by customer. CALPAK USA will not accept COD shipments. Furthermore, an RMA (Return Materials Authorization Number) will be required for such returns. CALPAK USA will perform offer QUALITY Products and or Services to meet or exceed ISO:9001 and AS9100 guidelines.

CALPAK USA will allow only one major modification. Major modifications include complete or partial schematic redesign, re-layout of PCB, addition of further components or peripherals, and major functionality additions or modifications to embedded microcontroller firmware. The major modifications will be charged on an hourly basis of \$150.00 an hour. The hours will be determined at the time of the changes and the additions request provided to CALPAK USA.

If minor changes are required for certifications purposes by the certifying agency, Calpak USA



will perform such changes at no additional cost to Customer. Calpak USA will determine the extent of such changes and will notify Customer of potential additional charges, if hardware changes are required.

If for any reason Customer halts the project during design, printed circuit board layout, during component procurement or during component delivery, or assembly phase, then CALPAK USA will charge Customer the full price of the purchase order and or correlating quotation, and Customer will be liable to pay the full-unpaid balance along with a cancellation fee as mentioned above.

### **3. PRICES:**

Orders are billed at the prices as per signed quotation at the time of shipment. Prices will be as specified by CALPAK USA and will be applicable for the period specified in CALPAK USA's quote. If no period is specified, quoted prices will be applicable for thirty (30) days. Prices are exclusive of taxes, impositions and other charges, including sales, use, excise, value-added and similar taxes or charges imposed by any government authority, international shipping charges, forwarding agent's and broker's fees, bank fees, consular fees, and document fees.

### **4. TERMS OF PAYMENT:**

A. All payments must be made in US Dollars in the amounts mentioned on the original invoice and or quotation. Credit cards accepted include MasterCard, VISA, and American Express. Credit Card billing information must be verified on new customers prior to shipment of order. Paypal is also accepted. A four (4%) fee will be added to all balances for payments made by credit card of Paypal. Payment via net thirty (30) days is available on approved credit to businesses and agencies with providing five trade references, completion of credit application or as otherwise specified by CALPAK USA. All payments are to be made payable to CALPAK USA, INC.

B. Customer agrees to pay the entire net amount of each invoice from CALPAK USA pursuant to the terms of each such invoice, without offset or deduction. Orders are subject to credit approval by CALPAK USA, which may in its sole discretion at any time change the terms of Customer's credit, require payment in cash, bank wire transfer/EFT, by credit card, or by official bank check, or by Pay Pal and/or require payment of any or all amounts due or to become due for Customer's order before shipment of any or all of the Products and or Services. If CALPAK USA reasonably believes that the Customer's ability to make payments may be impaired or if Customer fails to pay any invoice when due, CALPAK USA may suspend, delay, or halt delivery of any or partial order or any remaining balance thereof, until such payment is made and or CALPAK USA may cancel any order or remaining order or any remaining balance thereof.

Customer will remain liable to pay for any Products and or Services already shipped or for work already performed, and or parts which have been ordered. Customer agrees to submit such financial information as CALPAK USA may reasonably require for determination of credit terms and/or continuation of credit terms. Checks are accepted subject to collection and the date of collection will be deemed the date of payment. Any check received from Customer may be applied by CALPAK USA against any obligation owing by Customer to CALPAK USA under this or any other contract, regardless of any statement appearing on or referring to such check, without discharging Customer's liability for any additional amounts owing by Customer to CALPAK USA. The acceptance by CALPAK USA of such check will not constitute a waiver of CALPAK USA's right to pursue the collection of any remaining balance. Invoices not paid when due will bear interest to date of payment at the annual rate of eighteen (18%) percent or such lower rate as may be the maximum permitted by law. If Customer fails to make payment when due, CALPAK USA may pursue any legal or equitable remedies, in which event CALPAK USA will be entitled to reimbursement of costs for collection and reasonable attorneys' fees. There is a \$45 (USD) service charge on all returned checks.

C. If credit terms of Net 30 is not granted to Customer, customer may pay with the previously mentioned Credit Card, Paypal, or have payment arrangements made with CALPAK USA. The payment arrangement for Products and or Services are mentioned in each quotation.

D. Once CALPAK USA has received completed Credit Application and is finished processing such application, CALPAK USA will notify Customer of payment terms. Payment terms will be one of the following:

1. Net 30 (on approved credit) 2. COD (Payment due upon completion of work as, all Engineering Services require advance to begin project – see quotation) 3. Payment Arrangement (as mentioned above)

## **5. SALES TAX:**

### **US Shipments**

When required by law CALPAK USA will collect Federal, State and/or Local sale, use, excise, and other taxes that apply to a Customer's shipment. These taxes are in addition to the purchase price of the Products and or Services subject to an order. Customer will remit the correct tax unless customer is tax exempt and CALPAK USA has a valid signed tax exemption certificate on file.

### **INTERNATIONAL Shipments**



All applicable VAT, PST, HST, and/or GST charges along with brokerage fees will be the responsibility of the Customer and due at the time of delivery.

#### **6. DELIVERY AND TITLE:**

All shipments by CALPAK USA are F.O.B. point of shipment from CALPAK USA's facility and the amount of all transportation charges will be paid to CALPAK USA by the Customer in addition to the purchase price of the Products and or Services. Subject to CALPAK USA's right of stoppage in transit, delivery of the Products and or Services to the carrier will constitute delivery to Customer and title and risk of loss will pass to Customer. CALPAK USA will make reasonable efforts to initiate shipment and schedule delivery as close as possible to Customer's requested delivery date(s) and or as mentioned in the quotation. Customer acknowledges that delivery dates provided by CALPAK USA are estimates only and that CALPAK USA will not be liable for failure to deliver on such dates. Selection of the carrier and delivery route will be made by CALPAK USA unless specifically designated by Customer. CALPAK USA reserves the right to make deliveries in installments. Delay in delivery of one installment will not entitle Customer to cancel any other installment(s). Delivery of any installment of Products and or Services within thirty (30) days after the date requested will constitute a timely delivery. Delivery of a quantity that varies from the quantity specified shall not relieve Customer of the obligation to accept delivery and pay for the Products and or Services delivered.

#### **7. CALPAK USA'S LIMITED WARRANTY:**

CALPAK USA agrees to transfer to Customer whatever transferable warranties CALPAK USA receives from the manufacturer of components used in work performed for Customer by CALPAK USA. CALPAK USA makes no other warranty, express or implied, with respect to the Products and or Services. IN PARTICULAR, CALPAK USA MAKES NO WARRANTY RESPECTING THE MERCHANTABILITY OF THE PRODUCTS AND OR SERVICES OR THEIR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR RESPECTING INFRINGEMENT. CALPAK USA's liability arising out of any sale of Products and or Services to Customer is expressly limited to either (1) Refund of the purchase price paid by Customer for such Products and or Services (without interest), or (2) Repair and/or replacement of such Products and or Services, at CALPAK USA's election, with such remedies exclusive and in lieu of all others. Customer must notify CALPAK USA within 7 days from date of receipt of shipment of any defective product unless Customer has already signed off, witnesses, and relieved CALPAK USA of any liability of warranty This warranty is in lieu of any and all other warranties, whether oral, written, expressed, implied or statutory. Implied warranties of fitness for a particular purpose and merchantability are specifically excluded and shall not apply. Customer's obligations and CALPAK USA's remedies with respect to defective or nonconforming Products and or Services, are solely and exclusively

as stated herein. Furthermore, no warranty will apply if the Product and or Services has been subject to but not limited to misuse, damage, static discharge, neglect, accident, modification, or has been soldered or altered in any way.

#### **8. CALPAK USA CORPORATE RoHS COMPLIANCE AND LEAD-FREE POLICY**

It is the policy of CALPAK USA to identify and offer Products and or Services to the Customer as RoHS Compliant or Lead Free, only after specific requirements have been met. CALPAK USA performs no testing of product and relies solely on the manufacturer of the components for identification of RoHS Compliance and for absence of lead. Furthermore, CALPAK USA makes no warranty, certification or declaration of compliance concerning said Products and or Services. Product and or Services is advertised or offered as RoHS Complaint or Lead-Free only after sufficient evidence is received from the component manufacturer; and any inventory, either in a bin or on order, has been determined to be RoHS compliant and/or Lead Free. Any relevant evidence will be filed and maintained for at least three years from the date of receipt. CALPAK USA defines the term "RoHS" as supplier declared compliance to all restricted hazardous substance regulations under the ELV, WEEE or RoHS EU directives, regulations or laws. CALPAK USA defines the term "Lead Free" as pertaining to any product that has been declared by a Supplier to be "Lead Free". All statements by CALPAK USA of RoHS compliance are based on producer documentation.

#### **9. LIMITATION OF LIABILITIES:**

IN NO EVENT SHALL CALPAK USA BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE including, but not limited to, damages resulting from loss of profit or revenue, recall costs, claims for service interruptions or failure to supply downtime, testing, installation or removal costs, costs of substitute Products and or Services, property damage, personal injury, death or legal expenses. Customer's recovery from CALPAK USA for any claim shall not exceed the purchase price paid by Customer for the goods, irrespective of the nature of the claim, whether in warrant, contract or otherwise. CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD CALPAK USA HARMLESS FROM ANY CLAIMS BROUGHT BY ANY PARTY REGARDING PRODUCTS AND OR SERVICES SUPPLIED BY CALPAK USA AND INCORPORATED INTO THE CUSTOMER'S PRODUCT.

#### **10. PRODUCT SAFETY NOTICE AND RESTRICTIONS:**

Products and or Services are intended for commercial use only. Certain components are traceable to the OEM manufacturer and Lot/Date Code where available and when requested at the time of customer order. CALPAK USA does not determine the specifications or conduct any performance or safety testing of any Products and or Services that it sells. Customer agrees that

all purchases are for commercial use. Any reference to military specifications is for reference only and does not modify these terms and conditions. CALPAK USA does not participate in any product safety engineering, product safety review or product safety testing. CALPAK USA cannot provide any safety testing, safety evaluation or safety engineering services. Products and or Services sold by CALPAK USA are not designed, intended or authorized for use in life support, life sustaining, human implantable, nuclear facilities, flight control systems, or other applications in which the failure of such Products and or Services could result in personal injury, loss of life or property damage. This includes, but is not limited to, Class III medical devices as defined by the US Food and Drug Administration (FDA) and Federal Aviation Administration (FAA) or other airworthiness applications. If Customer uses or sells the Products and or Services for use in any such applications: (1) Customer acknowledges that such use or sale is at Customer's sole risk; (2) Customer agrees that CALPAK USA and the manufacturers of such components used are not liable, in whole or in part, for any claim or damage arising from such use; and (3) CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD CALPAK USA HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, COSTS, EXPENSES AND LIABILITIES ARISING OUT OF OR IN CONNECTION WITH SUCH USE OR SALE.

#### **11. STATEMENTS AND ADVICE:**

If statements or advice, technical or otherwise, are offered or given to Customer, such statements or advice will be deemed to be given as an accommodation to Customer and without charge. CALPAK USA shall have no responsibility or liability for the content or use of such statements or advice. CALPAK USA Technical support is provided by telephone or email and, therefore, extremely limited in scope which prevents us from the direct participation in the design of any customer Products and or Services unless if such Product or Services is specifically designed by CALPAK USA. We do not conduct product suitability studies or engineering reviews of Products and or Services unless otherwise specified.

#### **12. INTELLECTUAL PROPERTY:**

If an order includes but not limited to firmware, software, or other intellectual property, such software or other intellectual property is provided by CALPAK USA to Customer subject to the copyright and user license, the terms and conditions of which are set forth in the license agreement accompanying such software or other intellectual property. Nothing herein shall be construed to grant any rights or license to use any software or other intellectual property in any manner or for any purpose not expressly permitted by such license agreement.

#### **13. FORCE MAJEURE:**

CALPAK USA will not be liable for delays in delivery or for failure to perform its obligations due

to causes beyond its reasonable control including, but not limited to, product allocations, material shortages, labor disputes, transportation delays, unforeseen circumstances, acts of God, acts or omissions of other parties, acts or omissions of civil or military authorities, Government priorities, fires, strikes, floods, severe weather conditions, computer interruptions, terrorism, epidemics, quarantine restrictions, riots or war. CALPAK USA's time for delivery or performance will be extended by the period of such delay or CALPAK USA may, at its option, cancel any order or remaining part thereof, without liability by giving notice to Customer.

#### **14. EXPORT CONTROL:**

CALPAK USA is committed to compliance with all U.S. Export Regulations and Laws. CALPAK USA will not sell or ship to countries embargoed by the U.S. Treasury Office of Foreign Asset Control (OFAC). CALPAK USA will not sell or ship to individuals or organizations identified by the U.S. Treasury as Specially Designated Nationals and Blocked Persons. CALPAK USA will not sell or ship Products and or Services prohibited under Export Administration Regulations to individuals or organizations identified by the U.S. Department of Commerce, Bureau of Industry and Security (BIS). CALPAK USA will not seek export licenses pursuant to Export Administration Regulations. CALPAK USA practices or adheres to BIS Export Enforcement and OFAC transaction reporting. Furthermore, CALPAK USA prohibits the re-export, brokering or transshipment of its Products and or Services to any individual, organization or country prohibited by the OFAC or BIS. The sale, resale or other disposition of Products and or Services, and any related technology or documentation, are subject to the export control laws, regulations and orders of the United States and may be subject to the export and/or import control laws and regulations of other countries. Customer agrees to comply with all such laws, regulations and orders. Customer further acknowledges that it shall not directly or indirectly export any Products and or Services to any country to which such export or transmission is restricted or prohibited. Customer acknowledges its responsibility to obtain any license to export, re-export or import as may be required.

#### **Export Classification Disclaimer**

Any use made of CALPAK USA classifications, whether it be ECCNs or any variation of Harmonized Tariff codes, is without recourse to CALPAK USA and at the user's risk. Export classifications are subject to change. If you export or re-export, your company, as the exporter of record, is responsible for determining the correct classification of any item at the time of export. Any export classification by CALPAK USA is for CALPAK USA's internal use only and shall not be construed as a representation or warranty regarding the proper export classification nor relied upon to make licensing determinations.

## **15. GENERAL**

The Terms and Conditions may not be modified or cancelled without CALPAK USA's written agreement. Accordingly, goods furnished and services rendered by CALPAK USA are sold only on the terms and conditions stated herein. The sale of Products and or Services hereunder will be governed by the Terms and Conditions, notwithstanding contrary or additional terms and conditions in any order purchase order, planning schedule, acknowledgment, confirmation or any other form or document issued by either party affecting the purchase and/or sale of Products and or Services. Notwithstanding any terms and conditions on Customer's order, the information and conditions on the Credit Application are controlling over Customer and CALPAK USA. Any conflicting statements or terms listed on the Customer purchase orders, invoices, confirmations or other Customer generated documents ("Customer Documents"), whether heretofore or hereafter submitted, are negated by submission of the Credit Application and the issuance of credit by CALPAK USA, and all different or additional terms and conditions contained in any Customer Documents are hereby objected to by CALPAK USA. CALPAK USA's performance of any contract is expressly made conditional on Customer's agreement to CALPAK USA's Terms and Conditions of Sale, unless otherwise specifically agreed upon in writing by CALPAK USA. In the absence of such agreement, commencement of performance and/or delivery shall be for Customer's convenience only and shall not be deemed or construed to be acceptance of Customer's terms and conditions or any of them. If a contract is not earlier formed by mutual agreement in writing, acceptance by Customer of any goods or services shall be deemed acceptance by Customer of the terms and conditions stated herein. No rights, duties, agreements or obligations hereunder, may be assigned or transferred by operation of law, merger or otherwise, without the prior written consent of CALPAK USA. The obligations, rights, terms and conditions hereof will be binding on the parties hereto and their respective successors and assigns. The waiver or breach of any term, condition or covenant hereof, or default under any provision hereof, will not be deemed to constitute a waiver of any other term, condition, or covenant contained herein, or of any subsequent breach or default of any kind or nature. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction, or affecting the validity or enforceability of such provision in any other jurisdiction. The Terms and Conditions will be governed by and construed in accordance with the laws of the state of Texas and the applicable laws of the United States.