



**Company's Standard Terms and Conditions of Sale  
M2 Global Technology, Ltd.**

**TERMS AND CONDITIONS OF SALE**

These terms govern the sale by M2 Global Technology, Ltd. or its general partner M2 Global, Inc. ("M2 Global") to M2 Global's customer ("Customer").

1. **ACCEPTANCE**

M2 Global's quotation shall not constitute an offer. It is intended as a price quotation and a notice to Customer of M2 Global's Terms and Conditions of sale. Customer's order, oral or written, regardless of any contrary wording, shall constitute an offer to purchase only on the Terms and Conditions stated on the face hereof and as set forth below. All Customer's Terms and Conditions in addition to or in conflict with those contained herein are hereby rejected and shall be void.

**CUSTOMER'S OBJECTIONS, IF ANY, TO M2 Global's TERMS AND  
CONDITIONS OF SALE SHALL BE MADE IN WRITING PRIOR TO SUBMISSION BY  
CUSTOMER OF ITS PURCHASE ORDER TO M2 GLOBAL. SUCH OBJECTION SHALL  
BE ADDRESSED TO M2 GLOBAL'S MANAGER OF CONTRACTS AT THE PLANT IN  
SAN ANTONIO, TEXAS PURSUANT TO ARTICLE 20.**

2. **ORDERS.**

Orders shall be initiated by Buyer issuing a Purchase Order or otherwise placing an order by electronic means acceptable to Seller. Orders shall identify the Products, unit quantities, part numbers, descriptions, applicable prices and requested delivery dates. All orders are subject to acceptance by Seller. No orders may be cancelled or rescheduled without Seller's consent, which consent may be given by Seller in its sole discretion. Seller reserves the right to allocate sales of Products among its customers in its sole discretion. Notwithstanding any provision of these Terms and Conditions to the contrary, all orders for Products (except those Products specifically identified by M2 Global as Standard Products on the M2 Global Sales Order Acknowledgement) are for Products that are special, custom, value added, or otherwise produced specially for the Customer, including Products to be assembled in kit form, work-in-process on hand and on order. Because of the special nature of these ordered Products, they will be considered by both parties to be "NCNR" or "**Non-Cancelable and Non-Returnable**" unless specifically otherwise agreed to, in writing, by M2 Global.



**3. PRICES.**

Prices shall be as specified by Seller and shall be applicable for the period specified in Seller's quote. If no period is specified, prices shall be applicable for thirty (30) days. Notwithstanding the foregoing, prices shall be subject to increase in the event of an increase in Seller's costs or other circumstances beyond Seller's reasonable control. 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, consular fees, document fees and import duties. If Seller shall be liable for or shall pay any of the foregoing, same shall be paid by Buyer to Seller in addition to the price of the Products.

**4. TERMS OF PAYMENT.**

Payment shall be net thirty (30) days from date of invoice or as otherwise specified by Seller. All prices and payments are in U.S. dollars. Buyer agrees to pay the entire net amount of each invoice from Seller pursuant to the terms of each such invoice without offset or deduction. Orders are subject to credit approval by Seller, which may in its sole discretion at any time change the terms of Buyer's credit, require payment in cash, bank wire transfer or by official bank check and/or require payment of any or all amounts due or to become due for Buyer's order before shipment of any or all of the Products. If Seller believes in good faith that Buyer's ability to make payments may be impaired or if Buyer shall fail to pay any invoice when due, Seller may suspend delivery of any order or any remaining balance thereof until such payment is made or cancel any order or any remaining balance thereof, and Buyer shall remain liable to pay for any Products already shipped and all Products ordered by Buyer, and furthermore Seller may require new payment terms including prepayment of remaining orders or letters of credit from a bank acceptable to Seller. Buyer agrees to submit such financial information from time to time as may be reasonably requested by Seller for the establishment and/or continuation of credit terms. Checks are accepted subject to collection and the date of collection shall be deemed the date of payment. Any check received from Buyer may be applied by Seller against any obligation owing from Buyer to Seller, regardless of any statement appearing on or referring to such check, without discharging Buyer's liability for any additional amounts owing from Buyer to Seller, and the acceptance by Seller of such check shall not constitute a waiver of Seller's right to pursue the collection of any remaining balance. Buyer shall pay interest on any invoice not paid when due from the due date to the date of payment at the rate of one and one-half (1-1/2%) percent per month or such lower rate as may be the maximum allowable by law. If Buyer fails to make payment when due, Seller may pursue any legal or equitable remedies, in which event Seller shall be entitled to reimbursement for costs of collection and reasonable attorneys fees.



**5. DELIVERY AND TITLE.**

All shipments by Seller are F.O.B. point of origin and all transportation charges shall be paid by Buyer in addition to the price of the Products. Subject to Seller's right of stoppage in transit, delivery of the Products to the carrier shall constitute delivery to Buyer and title and risk of loss shall thereupon pass to Buyer. Selection of the carrier and delivery route shall be made by Seller unless specified by Buyer. Seller shall use reasonable efforts to initiate shipment and schedule delivery as close as possible to Buyer's requested delivery dates. Buyer acknowledges that delivery dates provided by Seller are estimates only and that Seller is not liable for failure to deliver on such dates. Seller reserves the right to make deliveries in installments. Delivery of a quantity which varies from the quantity specified shall not relieve Buyer of the obligation to accept delivery and pay for the Products delivered. Delay in delivery of one installment shall not entitle Buyer to cancel other installments.

**6. ACCEPTANCE OF PRODUCTS AND PRODUCT RETURNS.**

Inspection and acceptance of the Products shall be Buyer's responsibility. Buyer is deemed to have accepted the Products unless written notice of rejection is received by Seller within ten (10) days after delivery of the Products. Buyer waives any right to revoke acceptance thereafter. Buyer shall report any discrepancy in shipment quantity or damage within ten (10) days after delivery. No return of Products shall be accepted by Seller without a Return Material Authorization ("RMA") Number, which may be issued by Seller in its sole discretion. Returned Products must be in original manufacturer's shipping cartons complete with all packing materials. All Products for return shall be returned freight prepaid in the manner specified in the RMA. If returned Products are claimed to be defective, a complete description of the nature of the defect must be included with the returned Products. Products not eligible for return shall be returned to Buyer, freight collect.

**7. FORCE MAJEURE**

**Seller shall not be liable for failure to fulfill its obligations herein or for delays in delivery due to causes beyond its reasonable control, including, but not limited to, acts of God, natural disasters, acts or omissions of other parties, acts or omissions of civil or military authority, Government priorities, changes in law, material shortages, fire, strikes, floods, epidemics, quarantine restrictions, riots, war, acts of terrorism, delays in transportation or inability to obtain labor or materials through its regular sources. Seller's time for performance of any such obligation shall be extended for the time period of such delay or Seller may, at its option, cancel any order or remaining part thereof without liability by giving notice of such cancellation to Buyer.**



## **8. SELLER'S LIMITED WARRANTY.**

- a. Seller warrants to Buyer that upon delivery to Buyer the Products purchased hereunder shall conform to the applicable manufacturer's specifications for such Products and that any value-added work performed by Seller on such Products shall conform to applicable Buyer's specifications relating to such work. Seller makes no other warranty, express or implied, with respect to the Products. **IN PARTICULAR, SELLER MAKES NO WARRANTY RESPECTING THE MERCHANTABILITY OF THE PRODUCTS OR THEIR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR RESPECTING INFRINGEMENT.** With respect to Products which do not meet applicable manufacturer's specifications and with respect to value-added work by Seller which does not meet applicable Buyer's specifications, Seller's liability is limited, at Seller's election, to (1) refund of Buyer's purchase price for such Products (without interest), (2) repair of such Products, or (3) replacement of such Products; provided, however, that such Products must be returned to Seller, along with acceptable evidence of purchase, within thirty (30) days from date of delivery, transportation charges prepaid. Seller shall transfer to Buyer whatever transferable warranties and indemnities Seller receives from the manufacturer of the Products, including any transferable warranties and indemnities respecting patent infringement.
- b. M2 Global standard warranty for all ferrite products of its own manufacture shall, at the time of manufacture and for a period of twenty-four months (2 years) thereafter, be free from defects in materials and workmanship and to conform to M2 Global's published specifications. All other products shall be warranted for a period of 12 months (1 year)
- c. **WARRANTY, OR OTHERWISE. SELLER SHALL NOT BE LIABLE FOR AND BUYER SHALL INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM ANY CLAIMS BASED ON SELLER'S COMPLIANCE WITH BUYER'S DESIGNS, SPECIFICATIONS OR INSTRUCTIONS, OR MODIFICATION OF ANY PRODUCTS BY PARTIES OTHER THAN SELLER, OR USE IN COMBINATION WITH OTHER PRODUCTS.**

## **9. USE OF PRODUCTS IN LIFE SUPPORT, NUCLEAR AND CERTAIN OTHER APPLICATIONS.**

Products sold by Seller are not designed, intended, or authorized for use in life support, life sustaining, nuclear, or other applications in which the failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property damage. If Buyer uses or sells the Products for use in any such applications: (1) Buyer acknowledges that such use or sale is at Buyer's sole risk; (2) Buyer agrees that Seller and the manufacturer of the Products are not liable, in whole or in part, for any claim or damage arising from such use; and (3) Buyer agrees to indemnify, defend and hold Seller and the manufacturer of the Products 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.



#### **10. EXPORT CONTROL.**

The sale, resale or other disposition of Products 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. Buyer agrees to comply with all such laws, regulations and orders and acknowledges that it shall not directly or indirectly export any Products to any country to which such export or transmission is restricted or prohibited. Buyer acknowledges its responsibility to obtain any license to export, re-export or import as may be required.

#### **11. FEDERAL CONTRACTS.**

For products acquired pursuant to Federal Acquisition Regulations, the following shall be construed to be incorporated herein: (1) Equal Opportunity (E.O. 11246); (2) Affirmative Action for Special Disabled and Viet Nam era Veterans (38 U.S.C. 2012(a)); and (3) Affirmative Action for Handicapped Workers (29 U.S.C. 793). No other Federal Acquisition Regulations shall be construed to apply to Seller without Seller's written agreement thereto.

#### **12. EXCUSABLE DELAY.**

M2 Global shall be excused from performance under the Purchase Order and not be liable to Customer for delay in performance attributable in whole or in part to any cause beyond its reasonable control, including but not limited to, actions or inactions of government whether in its sovereign or contractual capacity, judicial action, war, civil disturbance, insurrection, sabotage, act of a public enemy, labor difficulties or disputes, pandemics, failure or delay in delivery by M2 Global's suppliers or subcontractors, transportation difficulties, shortage of energy, materials, labor or equipment, accident, fire, flood, storm or other act of God, or Customer's fault or negligence. In the event of an excusable delay, M2 Global shall make reasonable efforts to notify Customer of the nature and extent of such a delay and M2 Global (i) will be entitled to a schedule extension on at least a day-for-day basis, (ii) in the event of Customer's fault or negligence, will be also entitled to an equitable adjustment in the price of this contract.

#### **13. CANCELLATION AND TERMINATION.**

Cancellation of the Purchase Order will be accepted only with the specific written approval of M2 Global and shall be subject to the standard M2 Global cancellation charges. In the event that either party breaches any provision of this Agreement or fails to cure such breach within thirty (30) days after receiving written notice from the other party, the breaching party shall be in default. M2 Global's maximum liability and Customer's maximum recovery for any claim arising out of or in connection with the sale or use of equipment hereunder shall not in the aggregate exceed the price paid by Customer for such equipment hereunder less the price of equipment delivered and retained by Customer.



#### **14. INFRINGEMENT INDEMNIFICATION.**

Customer agrees to promptly notify M2 Global in writing of any notice, suit, or any action against Customer based upon a claim that the Product infringes a US patent, copyright, trademark, or trade secret of a third party. M2 Global will defend at its expense any such action, except as excluded in these Terms and Conditions, and shall have full control of such defense including all appeals and negotiations, and will pay all settlement costs, or damages awarded against Customer, but M2 Global shall not be liable to Customer for special, incidental, indirect or consequential damages. In the event of such notice, suit or action, M2 Global will at its expense procure for the Customer the right to continue using the product, or modify the Product to render such non-infringing, or accept return and replace such with substantially equivalent non-infringing equipment or accept return of the Product and refund or credit to Customer the amount of the original purchase price, less a reasonable charge for depreciation and damage.

The preceding agreements by M2 Global in this section shall not apply to any Product or portion thereof manufactured to specifications furnished by or on behalf of Customer, or to any infringement arising out of the use of the Product in combination with other equipment or software not furnished by M2 Global, or to use in a manner not normally intended, or to any patent, copyright, trademark or trade secret in which Customer, or subsidiary or affiliate thereof, has a direct or indirect interest, or if customer has not provided M2 Global with prompt notice, authority, information and assistance necessary to defend the action. The foregoing states the entire liability of M2 Global for patent, copyright, trademark and trade secret infringements by the Product or portion thereof.

#### **15. TECHNICAL DATA AND INVENTION.**

Unless specifically agreed to by M2 Global and identified and priced in this contract as a separate item or items to be delivered by M2 Global (and in that event, except to the extent so identified and priced), the sale of goods hereunder confers on Customer no right in, license under, access to, or entitlement of any kind to any of M2 Global's technical data including but not limited to design, process technology, software and drawings, or to M2 Global's inventions (whether or not patent able) irrespective of whether any such technical data or invention or any portion thereof arose out of work performed under or in the course of this contract, and irrespective of whether Customer has paid or is obligated to pay M2 Global for any part of the design and/or development of the goods.

M2 Global shall not be obliged to safeguard or hold confidential any data whether technical or otherwise, furnished by Customer for M2 Global's performance of this contract unless (and only to the extent that) Customer and M2 Global have entered into a separate written confidential agreement. (Non-Disclosure Agreement (NDA)).

Customer shall not violate M2 Global's copyright of documents or software or disclose M2 Global's confidential or proprietary data to others without M2 Global's written permission.

#### **16. STATEMENTS AND ADVICE.**

If statements or advice, technical or otherwise, are offered or given to Buyer, such statements or advice shall be deemed to be given as an accommodation to Buyer and without charge and Seller shall have no responsibility or liability for the content or use of such statements or advice.



**17. ASSIGNMENT.**

Neither party may assign this agreement in whole or in part without the prior written consent signed by an officer of the other party. Such consent shall not be unreasonably withheld.

**18. GOVERNING LAW, VENUE, AND JURISDICTION.**

This Agreement will be governed by and construed in accordance with the laws of the State of Texas. The parties agree that any action to enforce any provision of this Agreement or arising out of or based upon this Agreement or the business relationship between M2 Global and Customer will be brought in a local or Federal court of competent jurisdiction in the State of Texas regardless of any conflict of laws that may be raised.

**19. ENFORCEABILITY.**

If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality or enforceability of the remaining provisions shall in no way be affected or impaired.

**20. NOTICES.**

All notices shall be in writing and shall be delivered or sent by registered, certified, express mail or email, return receipt requested, to the addresses indicated in this Agreement or to such other addresses as the parties shall specify by giving notice pursuant hereto. A copy of all notices shall be sent to M2 Global Technology, Ltd., 5714 Epsilon, San Antonio, TX 78249, Attention: Manager of Contracts.

**21. LIMITATION OF LIABILITY.**

**NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CONTRACT, UNDER NO CIRCUMSTANCES SHALL M2 GLOBAL BE LIABLE TO CUSTOMER OR ANY THIRD PARTY CLAIMING UNDER CUSTOMER FOR SPECIAL, INCIDENTAL, AND INDIRECT OR CONSEQUENTIAL DAMAGES, AS A RESULT OF A BREACH OF ANY PROVISION OF THIS CONTRACT. CUSTOMER HEREBY AGREES TO INDEMNIFY M2 GLOBAL AGAINST ALL LOSS OR LIABILITY FROM CLAIMS BY CUSTOMER OR A THIRD PARTY ARISING OUT OF OR RELATING TO THE INSTALLATION, OPERATION, OR USE OF THE EQUIPMENT, WHETHER ON ACCOUNT OF NEGLIGENCE OR OTHERWISE.**

22. If Buyer attempts to supercede these Terms and Conditions by sending to Seller a new set of Terms and Conditions, these new Terms and Conditions sent by Buyer shall not be valid unless agreed to in writing by M2 Global.

**23. ENTIRE AGREEMENT.**

This Agreement supersedes all previous communications, transactions, and understandings, whether oral, or written, and constitutes the sole and entire agreement between the parties pertaining to the subject matter hereof. No modification or deletion of, or addition to these terms shall be binding on either party unless made in writing and signed by a duly authorized representative of both parties.



March 29, 2021