

## TERMS AND CONDITIONS OF SALE

**General:** The following terms and conditions of sale (such terms and conditions sometimes referred to herein as "Seller's Terms and Conditions") shall be the only terms applicable to any contract or agreement for sale between the Argo Tech LLC/CCM Tech/ATC Srl/Argo International Corporation entity named on the Purchase Order or Acknowledgement ("Seller") and Buyer. Any terms and conditions in any of Buyer's documents (including but not limited to purchase orders, invoices, confirmations, and RFQs) that vary with, are inconsistent with or add to these terms are not acceptable and not binding upon Seller without express written consent of an authorized representative of Seller even though there may have been acknowledgment, work has commenced or the order has shipped. Seller's Terms and Conditions may only be amended in a writing signed by both parties and is the total and complete agreement between the parties. All proposals, negotiations, representations, recommendations, statements or agreements made or entered into prior to or concurrent to this contract or agreement are excluded. When used herein the terms "Warehoused Product," "Stock Product," "Standard Product" or "products from the warehouse" refer to a product that is standard product, currently in stock, and inventoried by Seller. The term "Product" refers to both Standard Product and Non-standard or Non-stocked Product, unless otherwise noted herein.

**Acceptance and Price:** Quotations are valid for thirty (30) days unless extended in writing by Seller. Prices quoted will be firm for orders accepted within such thirty (30) day period. Terms of payment, discounts, or minimum charges applicable to quotations are contained at Seller's locations. Additional charges may be made to cover any unforeseen or unusual cost elements that may not have been contemplated at time of quotation including, without limitation, overtime work authorized by Buyer, special packing, engineering, and documentation. All orders are subject to acceptance by Seller at the quote origination location and credit approval. Total prices on invoices may differ slightly, as price records for electronic calculation may either be on a "list and discount" or on a net basis as well as due to rounding of currency exchange.

**Shipment and Delivery:** All shipments, unless Seller specifically agrees otherwise in writing, are Ex Works (International Incoterms 2010) either the pertinent Seller warehouse or the pertinent equipment supplier warehouse or FOB (U.S. UCC) Seller shipping point (Origin), at which point title Buyer shall be liable to Seller for the full price of the goods, irrespective of loss or damage in transit. If the Buyer asserts a claim against the transportation company, Seller will cooperate in attempting to resolve such claim. Delivery dates are approximate, not guaranteed, and are subject to prior sale. Goods are deemed delivered on the day the shipment is made available to the freight forward or broker ("Delivery Date"). Any order request outside of normal lead times ("Expedited Service") will be charged as follows: Same Day Stocked Standard product: no charge, All other products: 25% of order value (\$250 / €250 minimum fee) plus any other applicable charges and costs.

**Shipping Dates:** The time for shipment given herein is approximate and is estimated from the date of receipt of order with complete manufacturing information and approval of drawings as may be necessary. Seller shall not be liable for any loss or damage for delay or non-delivery due to acts of the Buyer, or by reason of "force majeure" which shall be deemed to mean all other causes whatsoever not reasonably within the control of Seller, including, but not limited to, acts of God, war, riot, terrorism or insurrection, blockades, embargoes, sabotage, epidemics, fires, strikes, lockouts or other industrial disturbances, delays of carriers, and inability to secure materials, labor or manufacturing facilities. Any delay resulting from such cause shall extend shipping dates correspondingly. Under no circumstances shall Seller have any liability whatsoever for loss of use or for consequential damages resulting from delay regardless of the reasons. Receipt by the Buyer shall constitute acceptance of delivery and waiver of any claims due to delay.

**Force Majeure:** Seller shall not be liable for delays in delivery due to circumstances beyond its reasonable control, including, but not limited to, acts of government, nature, or the public enemy, civil or labor unrest, fires, floods, explosions, energy shortages or unavailability or reduced availability of supply at its usual source, strikes or carrier performance.

**Cancellation and Revision Charges:** Orders are not subject to cancellation or change in specifications, shipping schedules or other conditions originally agreed upon without Seller's written consent and then only upon Buyer's agreement to compensate Seller for loss caused by such cancellation or changes. Compensation in the event of any cancellation or change will be no less than twenty-five percent 25%, and up to one hundred percent (100%) of the total purchase price based on stage of order completion when cancellation or change is requested. Charges imposed upon Buyer may include engineering, drawing, or manufacturing development time. Reschedules may not be made unless written notification is received and accepted at the Seller location more than 60 days prior to the latest acknowledged shipping date, and then only upon terms which will indemnify Seller against loss. Buyer delay that creates incremental costs may result in a charge to Buyer (for example, if Buyer delays document approval prior to scheduled shipment and Seller incurs charges or penalties due to the delay, then these charges will be responsibility of Buyer)

**Product Safety and Safety Devices:** Products supplied or represented by Seller are capable of being used in a safe manner; but Seller does not warrant their safety under all circumstances. Products are provided with only those safety devices identified herein. It is Buyer's responsibility to furnish the appropriate guards and to install and use the Products in a safe manner in compliance with applicable health and safety regulations and laws and general standards of reasonable care. If Buyer fails to do so, Buyer shall defend and indemnify Seller from any claim, loss, cost, expense, action or cause of action (including reasonable attorneys' fees and court costs) resulting or arising from such failure. In no event shall Seller's liability exceed the cost of the Product or service provided by Seller.

**Packing and Shipping:** Seller will decide how to pack and ship unless specific written instructions are given by Buyer and accepted by Seller. If required, special export packaging that includes extra packaging, fully crated, with corrosion protection and heat-treated lumber can be included for an additional fee to Buyer based on package weights and dimensions.

**Designs, Dimensions and Weights:** Due to normal Product changes, the designs, dimensions, materials, components and weights shown in printed and electronic catalogs are subject to variation. If complete accuracy is required for an application, Buyer must request such assurance, additional information or certification in writing in advance from Seller.

**Manufacturing Devices and Technical Information:** Unless otherwise agreed to in writing by Seller, all design data, samples and other technical information relating to an order shall remain Seller's property and shall be fully insured by policies of insurance secured by Buyer against loss or theft while within Buyer's facility(ies) or possession.

**Warranty:** Seller warrants that its Products (i) conform to Seller's and manufacturer's published specifications, and (ii) will be free from defects in material or workmanship for one year from the date of installation or eighteen (18) months from date of shipment, whichever comes first. SUCH WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY OPERATION OF LAW OTHERWISE. SELLER MAKES NO WARRANTY OF MERCHANTABILITY AND NO WARRANTY THAT THE PRODUCTS SHALL BE FIT FOR ANY PARTICULAR PURPOSE. Any claim on account of defective Products for any cause whatsoever shall conclusively be deemed waived by Buyer unless written notice thereof is given to Seller promptly upon discovery within the warranty period set forth in this paragraph. Specific Products may expressly provide a warranty period greater than one year but only if so set forth in the manufacturer's written warranty. If Seller shall determine that such Products are defective in workmanship and/or material, Seller shall have the right to either replace or repair any defective materials, refund the purchase price upon return of the Product or to grant a reasonable allowance on account of such defects. Seller's liability and Buyer's exclusive remedy for defective Products shall be limited solely to replacement, repair, refund or allowance as Seller may elect. Seller and its equipment suppliers shall not be held liable for damages or delay caused by defective Products. This warranty does not extend to any

Products which have been subject to misuse, accident or improper installation or storage, maintenance or application, nor does it extend to Products which have been repaired or altered outside of Seller's plant unless authorized in writing by Seller, nor does this warranty extend to any labor charges for removal and/or replacement of the nonconforming or defective Product or part thereof. The provisions in the specifications hereto attached, if any, are descriptive only, unless expressly stated as warranties. Seller's liability to Buyer, except as to title, arising out of the supplying of the Product or use of such Product, whether based upon a claim in warranty, contract, or other tort (including negligence), shall not in any case exceed the cost of correcting defects in the Product or the contract price of the Product, whichever is less. Upon the expiration of said warranty period set forth in this paragraph, Seller shall have no further liability to Buyer for any reason or cause.

**Installation, Servicing or Repairs:** Any services performed by Seller in connection with the sale, installation, servicing, refurbishment or repair of any Product or equipment are warranted to be performed in a workmanlike manner. If any nonconformity with this warranty appears within 90 days after the services are performed, the exclusive obligation of Seller shall be to re-perform the services in a conforming manner. Extended warranties are available upon written consent from the Seller. In no event shall Seller's obligations with respect to any such service exceed the purchase price of the pertinent order. THE FOREGOING STATES THE ENTIRE WARRANTY OF SELLER ON SERVICES HEREIN DESCRIBED, IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, WHETHER WRITTEN, ORAL OR STATUTORY. NO WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR OR INTENDED PURPOSES SHALL APPLY.

**What is Not Covered by this Warranty:** No representative of Seller has authority to waive, alter, vary or add to terms and conditions of sale as set forth in this document without the prior written approval of an officer of Seller. It is expressly agreed that the entire warranty given to the Buyer is contained in this document. Seller does not warrant any defects in, damage to, or failure of Products caused by: (i) dynamic vibrations imposed by the operating system in which such Product is installed unless the nature of such vibrations has been defined and accepted in writing by Seller as a condition of operation; (ii) failure to provide suitable installation environment; (iii) use for purposes other than those for which the Product is designed, or other abuse or misuse; (iv) unauthorized attachments, modifications or disassembly; or (v) damage during shipping. Buyer's care in selection, adequate testing at time of installation and proper installation, operation and maintenance of all Products is required for adequate performance. Notwithstanding anything contained herein to the contrary, it is expressly understood that Seller provides no warranties of any kind or nature including, without limitation warranties of merchantability or fitness for any particular or intended purpose, for any Product or equipment sold that is used, rebuilt, or surplus in nature.

**Disclaimer of Warranty:** The warranties included in this document are in lieu of all other warranties, express or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose. In no event shall Seller be liable in tort or contract or under any other legal or equitable theory of law for any incidental special, indirect or consequential damages.

**Allocation of Risks:** This warranty allocates the risks of Product failure between Seller and Buyer. This allocation is recognized by both parties and is reflected in the price of the Products and services. Buyer acknowledges that it has read Seller's Terms and Conditions, understands them, and agrees to and is bound by same.

**Limitations of Liability in General:** IT IS EXPRESSLY AGREED THAT SELLER'S LIABILITY FOR ANY CLAIM FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR TRANSACTION AND/OR THE PRODUCTS, WHETHER THE CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, INDEMNITY, CONTRIBUTION, NEGLIGENCE OR OTHER TORT OR BREACH OF STATUTORY DUTY, IS LIMITED TO THE REPAIR OR REPLACEMENT OF THE PRODUCT

OR THE PARTS THEREOF BY SELLER OR, AT SELLER'S OPTION, A REFUND OF A PORTION OF THE PURCHASE PRICE OF THE PRODUCT ACTUALLY PAID BY BUYER. UNDER NO CIRCUMSTANCES WILL SELLER, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, AFFILIATES, AGENTS, REPRESENTATIVES AND EMPLOYEES BE LIABLE FOR ANY OTHER INJURY, LOSS, EXPENSE, OR DAMAGE, WHETHER DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE, INCLUDING BUT NOT LIMITED TO, LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, DAMAGE TO ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWN TIME COSTS, OR CLAIMS BY BUYER'S CUSTOMERS FOR ANY SUCH ENUMERATED DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING FROM DELAY IN SHIPPING IRRESPECTIVE OF THE REASON THEREFOR.

**Indemnification:** Buyer agrees to indemnify, defend, and hold harmless Seller, its officers, directors, shareholders, affiliates, agents, representatives and employees from and against any claim, liability, damage, suit, action, judgment, loss or expense, including but not limited to attorneys' fees and expenses, which may be imposed on, incurred by or asserted against Seller arising out of, resulting or alleged to result, directly or indirectly, in whole or in part, from the Products, equipment and/or services sold by Seller, with the exception of claims brought by third parties caused solely as a direct result of the gross negligence or willful misconduct of Seller. Buyer further agrees that Seller shall not be in any way responsible for claims or damages caused by the negligence, acts or omissions of Buyer or of any other person or party, or by the installation and/or removal of any equipment and/or Product.

**Minimum Charge:** A \$250.00/€250 minimum invoice charge may be assessed for orders accepted below aforementioned value.

**Terms of Payment:** Unless agreed in writing to the contrary, payment terms are thirty (30) days net from date of invoice. Seller reserves the right to charge interest at the rate of 1.5% per month or the highest rate allowed by law, whichever is higher, for all amounts more than thirty (30) days past due. Seller's costs of collection (including reasonable attorney's fees) will be the responsibility of and paid by Buyer. Terms of payment will be arranged subject to approval of Seller's Credit Department.

**Applicable Italian Law:** In case of delay in payments over the contractual terms set forth in the preceding paragraph, where the delay is due to Buyer, interest for late payment beyond such terms according to legislative decree 231/2002 will be due, according to commercial transactions.

**Payments:** Pro rata payments shall be made for partial shipments. If delivery is prevented or postponed at Buyer's request, or by reason of any other cause set forth specifically or by implication in the paragraph on "Shipping Dates," then all dates of payment related to delivery shall relate instead to the date of completion of manufacture. Letters of credit or other credit instruments established to provide payment for the Product ordered shall make provision for payment as set forth above where delivery is prevented or postponed under such circumstances. Storage of such Product will be at Buyer's expense and risk. When, in the opinion of Seller, the financial condition of Buyer renders it necessary, Seller may require cash payments or satisfactory security before shipment. In the event of bankruptcy or insolvency of Buyer or in the event any proceeding is brought against Buyer, voluntarily or involuntarily, under the bankruptcy or any insolvency laws, Seller shall be entitled to cancel any order then outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its reasonable and proper cancellation charges. The rights of Seller under this paragraph are cumulative and in addition to all rights available to Seller at law or in equity.

**Compliance with Law:** By entering into this contract or agreement with Seller, Buyer agrees to comply with the export laws of the United States with regard to the exportation of the products, services and any technical data associated herewith.

**Time for Commencing Suit:** Except as otherwise set forth herein, any

action for breach of any of the terms of this contract or agreement between the parties must be commenced within three (3) months of the alleged breach.

**Legal Construction:** The failure of Seller to insist upon strict performance of any of the terms and conditions stated herein or to exercise any right hereunder shall not be deemed to be a waiver of such terms, conditions, or rights in the future, nor shall it be deemed to be a waiver of any other term, condition, or right under Seller's Terms and Conditions. A waiver shall only be effective as to Seller if set forth in a writing executed by an authorized representative of Seller. The headings in this document are informational and do not modify Seller's Terms and Conditions. The parties specifically exclude the application of the U.N. Convention on the International Sale of Goods.

**Governing Law and Choice of Forum:** These terms and conditions of sale shall be construed (both as to validity and performance) and enforced in accordance with, and governed by, the laws of the State of New Jersey applicable to contracts to be performed entirely within that State, without giving effect to the principles of conflicts of law. The parties hereto agree that any suit or proceeding arising out of or relating to this contract or agreement between the parties or the consummation of the transactions contemplated hereby shall be brought only in a Federal or state court located in the State of New Jersey; provided, however, that neither party waives its right to request the removal of such action or proceeding from the State court to a Federal court in such jurisdiction. The parties hereto waive any claim (i) that such jurisdiction is not a convenient forum for any such suit or proceeding and (ii) that Buyer is not subject to personal jurisdiction within the courts of the State of New Jersey.

**Attorney's Fees:** In the event that a party hereto commences an action with respect to this contract or agreement or the consummation of the transactions contemplated hereby, the non-prevailing party in such action shall reimburse the prevailing party, upon demand, for all of the prevailing party's costs and expenses incurred in such action, including, without limitation, its reasonable attorney's fees.

**Taxes:** Buyer shall pay to Seller, in addition to the purchase price, any applicable amount of all Sales, Use, Privilege, Occupation, Excise, or other taxes, Federal, State, local or foreign which Seller is required to pay in connection with furnishing Products or services to Buyer. In lieu thereof, Buyer shall provide Seller with a tax exemption certificate acceptable to the pertinent taxing authorities.

**Export Compliance:** In order to ensure full compliance with U.S. export controls and sanctions laws and regulations, Buyer acknowledges and agrees that all Products purchased from Seller for export are subject to control under the U.S. Export Administration Regulations (15 CFR Part 730 et. seq.) administered by the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") ([www.bis.doc.gov](http://www.bis.doc.gov)) and other applicable U.S. export control laws and sanctions regulations, including those administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") ([www.treas.gov/ofac](http://www.treas.gov/ofac)). Buyer agrees that it will not export, re-export or transfer Products purchased from Seller via any means to any prohibited destination or for a prohibited end-use. The list of countries subject to United States economic sanctions may change from time to time, but currently includes Cuba, Iran, North Korea, Sudan, and Syria. Buyer also acknowledges and agrees that it will not export, re-export, or provide Products purchased from Seller to entities and persons that are ineligible under United States law to receive such items, including but not limited to, any person or entity on OFAC's List of Specially Designated Nationals or on BIS's Denied Persons List, Entity List or Unverified List. Seller reserves the right to refuse and/or cancel any order without liability or penalty if, at any time, Seller believes that any U.S. export control or sanctions laws may be violated.

**Sales for Export:** In case of sales for export, Buyer shall be responsible for procuring (as well as arranging for extensions of) such export, import or other licenses or authorizations as may be required. If written notification or the granting or extension of such licenses or authorizations is not received by Seller at least sixty (60) days prior to

the scheduled date of shipment (or of any part subject to partial shipment), the parties shall consult together in order to arrive at a mutually satisfactory solution of the problems arising as a result of the absence of such licenses or authorizations. Notwithstanding the immediately preceding sentence, Seller may, at any time after commencement of said sixty (60) day period but prior to shipment, request that the terms of payment be changed in a manner that will, in Seller's sole opinion, afford it assurance of receiving from Buyer sufficient payments from time to time to pay for Product then ready for shipment. If Buyer fails, within ten (10) days after such request, to comply with the payment terms as changed, Seller may, at its option, without liability or penalty, treat such failure as a cancellation of the order placed hereunder and Buyer shall thereupon pay to Seller a cancellation/restocking charge of no less than twenty-five percent (25%), and up to one hundred percent (100%) of the total purchase price, as and for liquidated damages.

**Returns for Credit:** No returns for credit will be accepted unless requested by Buyer within one year from the date of the original shipment and Seller's permission has been obtained in writing in advance. Only standard Products, which are in active demand, may be accepted. Credit will be based on prices prevailing at the time of return, or invoiced price, whichever is less, subject to deduction for handling and restoring goods to saleable condition. Obsolete or specially manufactured Products can be accepted for return or credit only to the extent of value to Seller and only at Seller's option. No credit will be issued to other than the original Buyer. All disputes related to quantities received by Buyer are required to be made by Buyer in writing to Seller within 72 hours after receipt of the Product or equipment.

**Nuclear Facility or Activity:** Unless otherwise agreed to in writing by an authorized representative of Seller, Product sold hereunder is not intended for use in connection with any nuclear facility or activity. If so used and any nuclear damage, injury or contamination occurs, Buyer agrees that Seller shall have no liability of any kind and shall defend and indemnify Seller for any such liability, claim, damage or loss, even if such liability, claim damage or loss arises from Seller's negligence.

**Entire Agreement:** These Terms and Conditions, together with the invoice, sets forth the entire understanding of the parties with respect to the subject matter hereof, and supersedes any and all prior communications between the parties, verbal or written.

**Customer Provided Information:** Seller respects Buyer's privacy. Buyer's email address will only be used to receive communications, product and promotional information from Seller and will not be sent to third parties.