

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

These General Terms and Conditions of Sale and Delivery (“Agreement”) contain the terms and conditions that govern the sale, purchase, and delivery of sensor products and related services (“Products”) purchased from Leuze electronic, Inc., a New Jersey corporation (“Manufacturer”). By submitting an order to Manufacturer, the purchaser of Products (“Buyer”) agrees to the terms and conditions set forth below.

1. General

- 1.1 Products and related services provided by Manufacturer are governed exclusively by the terms and conditions set forth below. To the extent that any request for quotation, purchase order, or any other document provided by Buyer contains any preprinted or written terms that either conflict with and/or supplement the terms and conditions set forth herein, such pre-printed and/or written terms shall be null and void unless expressly agreed in writing and signed by both parties.
- 1.2 These terms and conditions, as may be amended from time to time, will apply to all future transactions with Buyer.

2. Purchases of Products

- 2.1 Quotations provided by Manufacturer are for informational purposes only and do not constitute an offer for sale. Buyer’s written or verbal order to Manufacturer will be an offer of purchase, which may be accepted by Manufacturer only by providing a written order acknowledgement or, if no order acknowledgement is issued, by Manufacturer’s delivery. No other form of acceptance will give rise to a contract between the parties.
- 2.2 Information provided by Buyer before and/or during the processing of the order, including but not limited to information relating to performance, consumption, or any other particulars, will not be binding unless this information has been confirmed in Manufacturer’s order acknowledgement or in writing signed by Manufacturer.
- 2.3 Statements or representations in Manufacturer’s brochures or advertisements are for informational purposes only, and the statements and/or representations therein do not give rise to any guarantee, warranty, or other representation regarding the Products that may be relied upon by Buyer.
- 2.4 Manufacturer’s sales representatives, employees, and/or agents do not have any authority to make any warranty, guarantee, or representation regarding the Product that vary from or supplement these terms and condition, or to bind Manufacturer to any agreement. Any such warranty, guarantee, representation, or agreement must be in a writing signed by Manufacturer to be effective.

3. Software

- 3.1 In the event that Buyer desires to use the proprietary software available for use in conjunction with the Products (“Software”), the Software can be obtained from Manufacturer and/or its parent company, Leuze electronic GmbH+Co. KG (“Parent Company”). The Software is proprietary to Manufacturer and Parent Company and is protected by intellectual property laws and international intellectual property treaties.
- 3.2 Pursuant to acceptance of the Software and subject to the terms and conditions set forth herein, Manufacturer and Parent Company grant Buyer a not-for-resale, nonexclusive, nontransferable license to use the Software on machines that are agreed to by Manufacturer and for the purposes intended by Manufacturer. Manufacturer and Parent Company further grant Buyer the right to make two copies of the software for purposes of backup of the software. It is a violation of the terms of this agreement to transfer or sell the Software or related/derivative products or to use the Software for any purpose other than in conjunction with Manufacturer’s Products. Violation of these terms will result in the termination of this license and all other penalties allowed by contract and applicable law.
- 3.3 Parent Company owns the title, copyright, and other intellectual property rights in the Software, and it reserves all rights not expressly granted to User in this Agreement. Pursuant to this Agreement, the Software and its components are licensed, not sold.
- 3.4 Buyer agrees that, from time to time, the Software may be inaccessible or inoperable for any reason, including, without limitation: (i) equipment (hardware) malfunctions; (ii) software malfunctions; or (iii) changes or modifications to the Software by Buyer or any other third-party. **Manufacturer and Parent Company are not responsible, directly or indirectly, for the performance and/or reliability of the Software, Buyer’s software, platform, system, equipment, or otherwise, and/or modifications implemented by Buyer.**
- 3.6 Upon cessation of using Manufacturer’s Products, Buyer shall immediately uninstall and cease access to the Software and delete all copies of the Software.

4. Prices

- 4.1 Unless otherwise agreed, prices are F.O.B. Manufacturer’s facility in New Hudson, Michigan. Standard packaging is included in the price, and Buyer agrees to pay for any additional packaging.
- 4.2 Buyer is responsible for all sales, ad valorem, and/or any other taxes on the Products. To the extent that Buyer and Manufacturer agree to shipments sent outside the United States, Buyer is responsible for clearing the Products for export/import and paying for all export/import duties and charges.

4.3 The agreed prices, terms, and conditions herein shall apply to the sale and provision of the Products and/or services within the United States. In the event that Buyer's order(s) and/or the transaction will take more than four months to complete, Manufacturer reserves the right to adjust pricing to reflect unforeseen increases in wage rates, transport costs, fuel costs, or the cost of securing raw materials. In addition, in the event that the intended delivery date is postponed by more than three months, for reasons for which Manufacturer is not responsible, Manufacturer reserves the right to amend its price(s) in accordance with any changes in wages rates, transport costs, fuel costs, or the costs of securing raw materials. If Buyer makes changes to its order prior to delivery, Manufacturer may adjust its prices in accordance with the additional costs caused by the changes.

5 Deliveries; Transfer of Risk

5.1 Unless expressly agreed otherwise as to any specific purchase order issued and accepted hereunder, the Products will be delivered F.O.B., Manufacturer's facility in New Hudson, Michigan. Buyer shall be solely responsible for arranging and paying for shipment to Buyer's designated destination, and the risk of loss is transferred to Buyer upon Manufacturer's tender of the Products. Buyer shall insure each shipment at full replacement value and shall list Manufacturer as an additional named insured.

5.2 Manufacturer will have the right to deliver partial orders, unless partial deliveries would be unreasonable under the circumstances.

5.3 Unless otherwise expressly agreed in writing, delivery dates will not be binding. If so agreed in writing, the delivery date shall be considered to have been met if the shipment is made ready for dispatch by the specified delivery date and by notification to Buyer. Manufacturer will only be obliged to execute and deliver an order if the Buyer has made all agreed payments. If payments or down-payments are delayed or not fulfilled on time, all delivery dates will be extended accordingly.

5.4 If the parties have agreed in writing as to delivery dates, Manufacturer will not be liable for delays by reason of unforeseen events that make the delivery particularly difficult or impracticable. In the event of such delays, Manufacturer will be entitled to postpone the delivery by the period of time during which the obstacle exists, plus a reasonable startup period. This entitlement will also apply in cases of unforeseen events which affect the operations of a supplier or a subcontractor, and the supplier, subcontractor, and/or Manufacturer will not be liable for the same.

5.5 Subject to section 5.4 and to the extent that the parties have expressly agreed as to delivery date(s), if Manufacturer fails to meet the delivery date, Buyer has the right to cancel its order without penalty by providing written notice to Manufacturer within ten days after the missed delivery date, provided that the order has not already been shipped. In the event that Buyer proceeds with its order, by either expressly informing Manufacturer to proceed or by not timely providing notification of cancellation, Manufacturer will reduce the price of

Products by one-half (0.5 %) percent for each full week of delay (“Delay Penalty”) that is applicable to the delayed part of the order. The Delay Penalty will have a maximum of five (5%) percent of the price, applicable to the delayed part of the order. The Delay Penalty will begin at the end of the third full week after the missed delivery date. THIS ABOVE REMEDY FOR LOSSES OR DAMAGES CAUSED BY OR RELATED TO LATE DELIVERIES BY MANUFACTURER IS EXCLUSIVE AND THE PARTIES AGREE THAT MANUFACTURER WILL NOT BE OTHERWISE LIABLE FOR ANY CLAIM, LOSS, OR DEMAND, OR FOR DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR ANY OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DOWNTIME, OR DAMAGES CAUSED BY DELAYS.

6. Notices of defects; Warranty

6.1 Buyer must inspect the Products immediately after the Products have delivered to Buyer’s designated destination. Buyer must timely provide notice to Manufacturer in writing as to any defects, and, in any case, not later than seven days after delivery. The Products will be deemed accepted by Buyer after that time.

6.2 As to any defects, Buyer must provide Manufacturer an opportunity to investigate by making damaged goods and their packaging available to Manufacturer for inspection. If Buyer fails to do so, Manufacturer will not be liable for any such defects.

6.3 Manufacturer grants a limited warranty to Buyer of its Products, subject to the conditions and limitations set forth below:

6.3(a) Manufacturer warrants its sensor products (“Products”) to be free from manufacturing defects at the time of purchase. Manufacturer further warrants that its Products will not become defective as a result of a manufacturing defect during the two (2) year term of this limited warranty, starting from the date of delivery, with the exception that a one (1) year warranty will be provided for all versions of area safety laser scanners due to their design.

6.3(b) Should any Product fail because of a manufacturing defect within the two (2) year warranty term (one (1) year warranty term for area safety laser scanners), Manufacturer’s liability shall be limited to the repair and/or replacement of the defective Product. Any and all other costs, including labor and shipping costs, shall be the responsibility of the Buyer and not of Manufacturer.

6.3(c) Limitations:

- 1) This limited warranty does not apply to the installation of Products.
- 2) This limited warranty does not apply to, and Manufacturer shall not be liable for, any defect caused by the installation, use, or misuse of a Product.

- 3) Provided that Buyer has timely followed the procedures and requirements set forth in subsection 6.3(c)(6) below, Manufacturer, at its sole discretion, may either replace the defective Product free of charge or repair the Product. If Manufacturer is unable to repair or replace a defective Product, Manufacturer will provide a similar substitute product. The term “unable to repair” is defined as a failure to make the Product operational after three attempts at repair. The remedies in this paragraph shall be Buyer’s sole and exclusive remedies for defects in the Product, regardless of the nature of the alleged defect.
- 4) Any allegedly defective Product must be sent to Manufacturer’s facility for repair or replacement, and Buyer is responsible for shipping costs and for any loss or damage incurred during shipment. If Buyer requests “on-site” repairs or replacements at Buyer’s facilities, Buyer must submit a purchase order, subject to Manufacturer’s acceptance, and Buyer will be responsible for Manufacturer’s service charge, plus transportation costs and traveling expenses.
- 5) Replaced or repaired defective Products will be covered by the warranty for the remaining period of the warranty for the original product.
- 6) This limited warranty shall not apply or be honored unless Buyer first completes a Return Material Authorization (“RMA”) form, including providing a specific description of the alleged defect, and obtains an RMA number from the Manufacturer before returning the product for repair or replacement. In addition, Buyer must return the product within thirty (30) days after Purchaser discovers the alleged defect.
- 7) This limited warranty will not be valid unless Buyer has fully paid for the product.

THE REMEDIES STATED HEREIN ARE THE SOLE AND EXCLUSIVE REMEDIES OF THE BUYER FOR THE ALLEGED FAILURE OF AND/OR DEFECT IN THE PRODUCTS. THERE ARE NO WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE (EITHER EXPRESS OR IMPLIED) THAT EXTEND BEYOND THE FACE OF THIS LIMITED WARRANTY; MANUFACTURER EXPRESSLY DISCLAIMS ANY SUCH FURTHER WARRANTIES, EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS LIABILITY FOR ANY CONSEQUENTIAL, INCIDENTAL, OR OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DOWNTIME, OR DAMAGES TO ANY MACHINE, MATERIALS, OR ANY OTHER PRODUCTS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED HEREBY TO THE FULLEST EXTENT PERMITTED BY LAW.

7. Security interest

- 7.1 Title shall not pass to Buyer until Manufacturer has been paid in full, and Buyer grants Manufacturer a purchase money security interest in all Products delivered hereunder, including all proceeds, until payment in full has been made.
 - 7.2 If Buyer is a re-seller of the Products, Buyer hereby grants a security interest to Manufacturer in all Products in Buyer's inventory, including all proceeds. Upon Manufacturer's request, Buyer shall provide the name and address of every person or entity that holds a security interest in Buyer's inventory, and Manufacturer is authorized to provide notice of its security interest to any or all of those security interest holders.
 - 7.3 If the Products are incorporated in Buyer's products, Manufacturer's security interest attaches to Buyer's products, including all proceeds.
 - 7.4 Manufacturer shall have the right to file UCC financing statements to perfect its security interests, as well as filing any other document that may necessary to perfect its security interest.
8. Invoices and terms of payment
- 8.1 Unless expressly agreed otherwise, Manufacturer's invoices are due and Buyer agrees to pay Manufacturer's invoices within thirty (30) days of the date of each invoice. Invoices not paid when due shall accrue interest at a rate equal to the prime rate as of the date of the applicable invoice as published by the *Wall Street Journal*, plus two additional points, including on all accrued interest.
 - 8.2 Discounts will only be provided if Manufacturer has agreed to do so in writing. In the event that discounts have been provided, such discounts will not be honored unless the Buyer has timely paid all invoices.
 - 8.3 If Manufacturer has tendered Products for delivery and the delivery has been delayed due to Buyer's acts or omissions, Manufacturer will issue the invoice and payment will be due pursuant to subsection 8.1.
9. Design changes
- 9.1 Manufacturer expressly reserves the right to make design changes at any time, but it is not obligated to carry out such changes on Products already manufactured and/or delivered.
10. General terms
- 10.1 Buyer agrees to keep confidential and not to disclose, without written permission from Manufacturer, all Confidential Information provided by Manufacturer to Buyer. "Confidential Information" shall mean any technical or business information either marked or which would reasonably be deemed confidential or proprietary and furnished, disclosed or made available to Buyer, including, without limitation, specifications, marketing plans, financial data, technology and know-how, and pricing. Confidential Information does not include information which: (1) the recipient knew or had in its possession prior to

disclosure without confidential limitation; (2) is independently developed by the recipient without breach of this Agreement; (3) becomes publicly available without breach of this Agreement; and (4) is received rightfully from a third party and without obligation of confidentiality. Upon Manufacturer's request, Confidential Information contained in documents, whether written, printed, electronic, or any other form, as well as all copies, summaries, notes, and/or memoranda, shall be returned to Manufacturer.

- 10.2 Manufacturer reserves title and copyright to cost estimates, drawings, and other documents provided by Manufacturer.
- 10.3 This Agreement contains the entire understanding between the parties regarding the subject matter herein and supersedes any prior agreements, oral or written. This Agreement may not be modified or amended except in a writing signed by the parties that refers to this Agreement.
- 10.4 Manufacturer shall not be liable for any failure to deliver hereunder, where such failure has been occasioned by fire, embargo, strike, failure to secure materials from usual source of supply, or any circumstances beyond Manufacturer's control that shall prevent Manufacturer from making deliveries in the normal course of its business.
- 10.5 This Agreement shall be governed by, and interpreted in accordance with, the local laws of the State of Michigan, without regard to conflict of laws principles. For disputes arising from or relating to this Agreement, an order, or the Products, directly or indirectly, the parties consent to exclusive jurisdiction and venue in the state or federal courts sitting in the State of Michigan, and each waives all defenses of lack of personal jurisdiction and objections to venue. The parties further agree to waive the right to a trial by jury.
- 10.6 As to any dispute arising from or relating to this Agreement or any order, any claim shall be forever waived unless filed with a court, as designated in this Agreement, within one (1) year following the date of the occurrence on which the claim is based.
- 10.7 Nothing expressed or implied in this Agreement is intended, or may be construed, to confer upon or give any person or entity other than Manufacturer and Buyer any rights or remedies under, or by reason of, this Agreement.
- 10.8 Neither party's failure to insist on strict performance of any term or terms hereunder shall not constitute a waiver of any term or default by the other party. Any waiver of any breach or default hereof (a) must be in a writing signed by the party to be bound, and (b) shall not constitute a waiver by the applicable party of any other or subsequent breach or default of the other party.
- 10.9 Any notices required under this Agreement shall be sent by a nationally recognized overnight mail courier, or by confirmed receipt facsimile, with a hard copy sent by overnight mail courier.

- 10.10 Should any part of this Agreement be invalid or unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of the remaining portions.
- 10.11 Any other claims for compensatory damages against Manufacturer that are not covered in this Agreement are excluded, irrespective of the legal basis. All consequential and incidental damages are excluded and expressly disclaimed.
- 10.13 This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and permitted assigns. The Buyer's rights, duties, and obligations under this Agreement may not be assigned in whole or in part without the written prior consent of the Manufacturer, and, in the event of a sale of all or substantially all of the assets of a party, such consent will not be unreasonably withheld.