

## STANDARD TERMS & CONDITIONS OF SALE

NOTICE: THESE TERMS AND CONDITIONS, TOGETHER WITH ANY ADDITIONAL WRITTEN DOCUMENTS SIGNED BY AN OFFICER OF MMG CANADA, REPRESENT THE FINAL COMPLETE AND EXCLUSIVE TERMS AND CONDITIONS BETWEEN PARTIES AND MAY NOT BE MODIFIED, SUPPLEMENTED, EXPLAINED, SUPERSEDED, RESCINDED OR WAIVED BY PAROL EVIDENCE, BUYER ORDER, COURSE OF DEALING, MMG CANADA'S PERFORMANCE OR DELIVERY, USAGES OF TRADE OR CUSTOM OR IN ANY OTHER WAY EXCEPT IN WRITING SIGNED BY AN OFFICER OF MMG CANADA. ANY REFERENCE BY MMG CANADA TO BUYER'S SPECIFICATIONS OR REQUIREMENTS, AND ANY CATALOGUES, CIRCULARS OR SIMILAR PAMPHLETS OF MMG CANADA, ARE FOR GENERAL INFORMATION PURPOSES ONLY AND SHALL NOT BE DEEMED TO MODIFY THE PROVISIONS HEREOF. MMG CANADA'S FAILURE TO ENFORCE ANY OF THESE TERMS AND CONDITIONS AT ANY TIME SHALL NOT IN ANY WAY AFFECT, LIMIT OR WAIVE MMG CANADA'S RIGHT THEREAFTER FOR ENFORCE AND COMPEL STRICT COMPLIANCE WITH EVERY TERM AND CONDITION HEREOF IN THE EVENT THAT ANY PURCHASE ORDER BY BUYER CONTAINS ANY TERM OR CONDITION AT VARIANCE WITH THESE TERMS AND CONDITIONS, UNLESS BUYER PROMPTLY NOTIFIES MMG CANADA THAT IT OBJECTS TO THESE TERMS AND CONDITIONS AND SUCH OBJECTION IS MADE IN WRITING WITH SPECIFICITY, BUYER SHALL BE DEEMED TO HAVE ASSENTED TO ALL OF THEM AND THE TERMS AND CONDITIONS SET FORTH HEREIN SHALL PREVAIL.

1. **DEFINITIONS:** The following terms shall be defined as follows:
  - (a) "Buyer" means the party purchasing from MMG.
  - (b) "MMG" means MMG CANADA LIMITED.
  - (c) "Order" means Buyer's oral or written order, including purchase order, for products from MMG.
  - (d) "Products" means that the products purchased by "Buyer" from MMG as indicated on the acknowledging sales order.
2. **SHIPMENT AND DELIVERY:**
  - (a) All shipments shall be F.O.B. shipping point, unless otherwise agreed to in writing by MMG and indicated on the Order. MMG shall not ship in any special manner or insure shipments against loss or damage unless so requested in writing by Buyer and agreed to in writing by MMG and then at Buyer's expense. Risk of loss and damage to Products in any event shall pass to Buyer upon delivery of such Products by MMG to a common carrier or other shipping agent.
  - (b) MMG reserves the right to ship and bill for a quantity tolerance of  $\pm 10\%$  of the specified order quantity. Orders are subject to a special handling charge of 25% of the total order value if over/under shipment is refused by the Buyer.
3. **INSPECTION AND ACCEPTANCE:** All Products purchased by Buyer shall be deemed inspected and accepted within seven days after delivery by MMG. All claims by Buyer, including claims for shortages shall be asserted in writing by Buyer within said seven day period or they shall be deemed waived. If the Order involves partial performances, all such claims shall be asserted within said seven day period of each partial performance.
4. **RETURNS:**
  - (a) There shall be no cancellation, revocation of acceptance or return of Products except for defects in Product material and workmanship. MMG will not accept Products returned unless Buyer obtains MMG's prior written consent. Upon obtaining such written consent Buyer shall pack, insure for shipment and immediately return at Buyer's expense such Products in as good condition as when received by Buyer. MMG shall not be responsible for Products damaged or lost while en route to it.
  - (b) Buyer shall not return custom Products manufactured solely for Buyer for reasons other than defects in material or workmanship. Any such cancellation of an Order for custom Products manufactured solely for Buyer shall be subject to a cancellation charge equal to the cost incurred by MMG for all materials, work-in progress and finished goods, or 10% of the total order value, whichever is greater.
  - (c) If Buyer wrongfully returns or revokes acceptance of the Products or fails to make payment as provided for under the PRICES AND PAYMENTS section below, MMG reserves the right, among other remedies, to terminate the Order, suspend further deliveries, or recover as damages the price of such Products as referred to herein. In the alternative, Products accepted by MMG on return shall be subject to a restocking/handling charge of 15% or \$50.00, whichever is greater, and must be returned with freight charges prepaid.
5. **DELAY/NON PERFORMANCE:** MMG shall not be liable for any failure or delay in its performance or delivery of Products when such failure or delay is directly or indirectly caused by or in any manner arises or results from fire, flood, storm, explosion, earthquake or act of God, epidemic, quarantine restriction, riot, civil commotion, embargo, hostility, mobilization for war, interference by civil or military authority, domestic or foreign governmental act, regulation or ruling, including but not limited to, priorities, allocation, freeze or rationing order, strike, labour dispute, the inability of MMG to procure labour, machinery, equipment, materials or supplies, or any other similar or dissimilar cause beyond the reasonable control of MMG. In the event of such delay, this agreement shall not be terminated and the date of performance shall be extended for a reasonable period of time equal to the period of delay. MMG shall notify Buyer of any such material delay and shall specify a revised performance date as soon as practicable.
6. **PRICES AND PAYMENT:** Payment terms are either CIA or Net 30 days from the date of the invoice upon approval by MMG's finance department as detailed under the CREDIT section below. The Buyer shall pay to MMG all charges for Products provided by MMG and all applicable preparation, packing and freight charges at the time indicated on MMG's invoice. The currency of prices specified is indicated on the invoice, payable to MMG free of all expenses incurred by MMG collection charges. 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 as provided in section 5 above, then all dates of payment related to delivery shall relate instead to the placement of such equipment in storage. In such event (1) MMG's delivery obligations shall be deemed fulfilled and title and all risk of loss or damage shall thereupon pass to Buyer. (2) any amounts otherwise payable to MMG upon delivery shall be payable upon presentation of MMG's invoices and its certification as to such cause, and (3) all expenses incurred by MMG such as for preparation for the placement into storage, inspection, preservation and insurance, shall be payable by Buyer upon submission of MMG's invoices. The foregoing extension of delivery shall apply even though such cause(s) may occur after MMG's delivery has been delayed for other causes.
7. **CREDIT:**
  - (a) When in the opinion of MMG the financial condition of Buyer renders it necessary, MMG may require cash payment or satisfactory security before shipment. If payment for such charges is not made to MMG at such time, Buyer shall pay, in addition to such Product charges, interest charges at the lessor rate of 18% per annum or the maximum rate permitted by applicable law. In the event that any amounts invoiced are not paid when due, Buyer agrees to pay all of MMG's costs and expenses of collection thereof, whether through legal proceedings or otherwise, including but not limited to reasonable attorneys fees.
  - (b) If seller in its sole discretion does not approve Buyer's credit. Seller reserves the right to cancel the entire agreement or to cancel any shipment thereafter.
8. **SECURITY AGREEMENT:** The Buyer hereby grants to MMG purchase money security interest in any Products sold to Buyer to secure the payment of Buyers obligations to MMG hereunder. In the event Buyer defaults in the payment of any amount required to be paid by it, whether under the Order or otherwise, and

the default continues for a period of 10 days after written notice to Buyer, all unpaid amounts owing to MMG by Buyer, whether pursuant to the Order or otherwise, shall become immediately due and payable in addition to the right of acceleration of such amounts. MMG may pursue any and all remedies provided by law. At MMG's request, Buyer shall execute and deliver a financing statement covering such Products.

9. **WARRANTIES AND DISCLAIMERS:** MMG warrants to Buyer that the Products shall be free from defects in material and workmanship for a period of 90 days from the date of shipment by MMG, provided that this warranty shall terminate and be of no further force or effect upon any improper storage or use of the Products. THIS WARRANTY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE BUYER SHALL GIVE MMG WRITTEN NOTICE OF ANY CLAIM FOR ANY ALLEGED BREACH OF THIS WARRANTY WITH 30 DAYS FOLLOWING NOTICE THEREOF. FAILURE TO PROVIDE SUCH NOTICE SHALL CONSTITUTE A WAIVER BY BUYER OF ALL CLAIMS RELATING TO SUCH ORDER. IF ANY DEFECT IN MMG'S PRODUCT APPEARS UPON DELIVERY, AND BUYER HAS GIVE PROMPT NOTICE TO SUCH DEFECT, MMG MAY REPAIR OR REPLACE THIS PRODUCT, AT ITS OPINION, BY SHIPPING A SIMILAR PRODUCT FOB SHIPPING POINT. MMG MAY REQUIRE THE RETURN TO A DESIGNATED MMG LOCATION, OF DEFECTIVE PART. TRANSPORTATION PREPAID BY BUYER, TO ESTABLISH BUYER'S CLAIM, NO ALLOWANCE SHALL BE MADE FOR REPAIRS UNDERTAKEN WITHOUT MMG'S WRITTEN CONSENT OR APPROVAL. THIS WARRANTY APPLIES ONLY TO PRODUCTS MANUFACTURED BY MMG. WARRANTIES ON PRODUCTS MANUFACTURED BY OTHERS, IF ANY, ARE ASSIGNED TO BUYER BY MMG (WITHOUT RECOURSE) AT TIME OF DELIVERY. ANY DESCRIPTIONS OF THE PRODUCTS, DRAWINGS, SPECIFICATIONS AND ANY SAMPLES, MODELS, BULLETINS, OR SIMILAR MATERIAL USED IN CONNECTION WITH THIS SALE ARE FOR THE SOLE PURPOSE OF IDENTIFYING THE PRODUCTS AND ARE NOT TO BE CONSTRUED AS AN EXPRESS WARRANTY THAT THE PRODUCTS SHALL CONFORM TO SUCH DESCRIPTION. ANY FIELD ASSISTANCE OR INSTALLATION SUPPORT IS ADVISORY ONLY.
10. **GOVERNMENT AUTHORISATIONS:** Buyer will be responsible for the timely obtaining of all required authorizations, including export licenses, import licenses, exchange permits and all other government authorizations, even though such authority may be applied for by MMG. Buyer will assist MMG in every manner reasonably possible in securing such authorizations as may be required. MMG will not be liable if any authorization is delayed, denied, revoked, restricted or not renewed and Buyer will not be relieved thereby of its obligations to pay MMG for its work. All sales hereunder will be at all times be subject to export control laws and regulations of the Canadian Government and any amendments thereof. Buyer agrees that it will not make any disposition by way of trans-shipment, re-export, diversion or otherwise, except as such laws and regulations may expressly permit of Canadian origin goods purchased by MMG, other than in and to the ultimate country of destination specified on Buyer's order and/or declared as the country of ultimate destination on MMG's invoice.
11. **COMPLIANCE WITH STATUTES AND REGULATIONS:** By acceptance of this order, Buyer warrants it has complied with all applicable government, statutory and regulatory requirements, and will furnish MMG with such documents as may be required hereunder. Should Buyer fail to comply with the terms and conditions contained herein, or as otherwise specified, MMG may defer shipments and deliveries or may, at its options, cancel the undelivered balance of the order. Buyer shall not assign its rights and interests under these Terms and Conditions to, and the sales contract itself without the written consent of MMG.
12. **LIMITATION OF LIABILITY:**
  - (a) The sole and exclusive remedy of the Buyer and any other purchaser against MMG shall be the replacement without charge of such items of MMG's production as MMG agrees are defective, or issuing of credit with respect thereto, all at MMG's option. The stipulated remedy shall not be deemed to have failed of its essential purpose so long as MMG replaces defective goods and issues credit with respect thereto.
  - (b) MMG shall not under any circumstances, whether as a result of breach of contract, breach of warranty, tort, or otherwise be liable for consequent, incidental, special, or exemplary damages including, but not limited to, loss of profits or revenues, loss of use or damage to any associated equipment, cost of capital, cost of substitute products, facilities or services, downtime costs, or claims of Buyer's customers.
  - (c) MMG shall not be subject to any liability, whether in contract, tort, or otherwise, on any claim for loss or damage concerning Products, parts, advise, assistance, or service which MMG furnished to the BUYER as a business courtesy, but are not required hereunder.
  - (d) The warranties and remedies set forth herein do not apply to Products which have been misused, inadequately maintained or stored, or incorrectly or negligently installed or serviced. MMG DISCLAIMS ALL LIABILITY, WHETHER IN CONTRACT, TORT, WARRANTY OR OTHERWISE, TO ANY PART OTHER THAN BUYER.
13. **TAXES:** Prices listed herein do not include taxes. The gross amount of any sales, property, excise, use, value-added, or other similar tax applicable to one price, sale or delivery of any goods or services furnished hereunder, or to their use by MMG or Buyer shall, at MMG's option, either be added to the prices as shown on the face thereof or be paid directly by Buyer unless prior to shipment Buyer provides MMG with a tax exemption certificate acceptable to the taxing authorities.
14. **ASSIGNMENT:** This agreement between MMG and Buyer shall be binding upon and insure to the benefit of the respective successors and permitted assigns of each of the parties hereto, but this agreement shall not be assigned by BUYER without the prior written consent of MMG and any purported assignment by Buyer without such consent shall be null and void.
15. **CHOICE OF LAW:** The validity, performance and all matters relating to the interpretation and effect of this agreement and any amendments thereto or modifications hereof shall be governed by the laws of the Province of Ontario without regard to the conflict of laws principles thereof.



A subsidiary of TT electronics plc

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