

## **Basilus General Terms and Conditions of Sale**

All orders are subject to Seller's General Terms and Conditions of Sale set forth below.

**Acceptance:** The terms and conditions contained herein constitute the terms and conditions upon which Basilus (Seller) shall supply Products to Buyer pursuant to Seller's quote and any purchase order, contract, or order acknowledgement (the "Purchase Order"). Buyer may accept Seller's quotation by issuing a Purchase Order pursuant to Seller's quotation but any Purchase Order shall include Seller's General Terms and Conditions of Sale. In the event of conflicts between Buyer's Purchase Order, Buyer's Terms and Conditions or Non Disclosure Agreement and Seller's General Terms and Conditions of Sale, Seller's General Terms and Conditions of Sale will apply. Buyer accepts terms and conditions contained herein. No inconsistent and/or additional terms or conditions submitted by Buyer in any form or in issuing purchase orders, releases, shipping instructions or other documents, shall be valid. Final acceptance of orders is subject to approval of Seller's credit department.

Any quotation submitted by Seller shall include Seller's General Terms and Conditions of Sale and shall be deemed its entire offer with regard to the work described therein.

There are no prior or contemporaneous oral or written agreements which either party considers or treats as binding. Any different or additional Terms or Conditions that modify or conflict with these General Terms and Conditions of Sale contained in a Purchase Order shall be of no force or effect between the parties, and the Seller's quotation and General Terms and Conditions of Sale shall control.

**Pricing**– All Engineering Estimates or Quotations are valid for thirty (30) days from date of issue.

**Payment Terms:** All sums shall be payable according to the payment terms of Net 30, unless otherwise stated in a Basilus Quotation, measured from the date of Seller's invoice, payable in legal tender of the U.S.A. Seller may recover for each delivery as a separate transaction and may upon reasonable dissatisfaction with Buyer's creditworthiness, or upon late payment or any other default by Buyer, decline to make delivery. Interest shall accrue on overdue payments at 1.5% per month.

**Ownership, Delivery, and Transportation:** Ownership of and title to all Products purchased by Seller shall pass to Buyer upon delivery of the Products at Seller's place of business. All risks of damage to or loss, destruction or deterioration of the Products supplied hereunder shall be borne by Buyer after delivery and during and after shipment. It shall be Buyer's responsibility to insure against such risk from the time of delivery. Delivery at Seller's place of business in all cases shall constitute delivery to the Buyer. Seller is not liable for delays after delivery. All sales are EXW.

**Specifications:** If submitted written specifications are not complete in detail, then Seller's standard specifications will be used in all matters pertaining to manufacturing, inspection,

marking, packaging, and shipping of the Products ordered not covered by the submitted specifications.

**Returned Items:** No items may be returned without written authorization from Seller. Items shipped incorrectly must be reported immediately and returned in original shipping container.

**Credits:** All invoices shall be due and payable when submitted for payment in accordance with Seller's terms. No withholding of funds, back charges, or credits against amounts otherwise due us will be permitted unless specifically agreed to in writing by Seller. Settlements of any amounts due Buyer will be negotiated as separate items and not as offsets against amounts otherwise due us from Buyer or products sold hereunder. Any credit memos issued to Buyer shall expire if not used within one (1) year from date of issue

**Weights:** Seller's weights and measures shall govern.

**Design Responsibility:** Seller will extend its technical and design expertise to Buyer's personnel and customers. Buyer will at all times maintain ultimate design authority and responsibility for the Products. Any tooling, equipment, solutions and techniques developed or created by Seller for or during the manufacturing process and specifically not described in the Seller's quote and in the purchase order, shall remain the property of Seller.

**Confidential Information:** Buyer and Seller agree that certain information supplied by each of them ("Disclosing Party") during the term of this Agreement, including, without limitation, the documentation and the intellectual property, design, and technology relating to the Products, and information contained on purchase orders or invoices regarding Purchaser's ordering or delivery patterns, information about Buyer's customers, and Sellers technical and manufacturing techniques and technology ("Confidential Information") is proprietary, secret, confidential, and non-public Confidential Information of the Disclosing Party. The party receiving the Confidential Information ("Receiving Party") agrees to hold Confidential Information in strict confidence and trust, as a fiduciary, to use it only for the purposes of this Agreement, and not to disclose it to any person other than an employee with a need to know the information in order to fulfill the obligations of this Agreement. The restrictions on disclosure of Confidential Information shall not apply if the information is already or becomes in the public domain through no fault of the Receiving Party or is validly obtained by the Receiving Party from a third party with a legal right to such information. The Receiving Party may disclose Confidential Information to the extent requested or required by a governmental or judicial entity, provided such disclosure is limited to the fullest extent permitted by applicable law and only after notice to the Disclosing Party. Upon termination of this Agreement, Receiving Party shall return or, at Disclosing Party's request, destroy all Confidential Information in its possession. The obligations pursuant to this Paragraph shall survive the termination of this Agreement for a period of ten years.

**Indemnification:** Upon notice by Seller, Buyer will defend any action brought against Seller or any company owned or controlled by Seller based upon any claim that any Products supplied hereunder or any design, drawings, photographs, data or other documents or materials associated or used in connection with any such Products that have been supplied by the Buyer infringes any patent, trademark or copyright. Buyer agrees to indemnify Seller and companies owned or

controlled by Seller from and against all liabilities, damages, costs and expenses including legal fees in connection with any such claim whether or not such action is defended by Buyer.

**Force Majeure:** Performance of any obligation under the Purchase Order may be suspended by either Seller or Buyer without liability, to the extent that: a violent act of nature; war; terrorism; riot; fire; explosion; accident; flood; sabotage; mechanical breakdown; plant shutdown; Seller's or Buyer's inability to obtain fuel, power, raw materials or equipment from its usual sources at prices it deems reasonable; governmental laws, regulations or orders; or any other cause (except financial) beyond the reasonable control of such party; or labor trouble, strike, lockout or injunction (whether or not such labor event is within the reasonable control of such party) delays, prevents, restricts, limits, or renders commercially infeasible, the performance of the Purchase Order, or the consumption, sale or use of the Product, except as to Product already in transit. The affected party shall invoke this provision by promptly notifying the other party of the nature and estimated duration of the suspension period. The total quantity shall be reduced by the quantity not delivered during the term of such suspension and the Purchase Order shall otherwise remain unaffected. In no event shall Seller be required to ship product from Seller's or, if applicable, its affiliates' other locations or to purchase products or components from other sources to fulfill the Purchase Order requirements. If any of such contingencies occur, Seller may, without liability to Buyer of any kind, keep its available supply of any Product for its own uses, or distribute it among its customers upon such basis and in such manner as Seller deems fair and practicable.

#### **LIMITED WARRANTY**

Seller warrants to the Buyer that its Products are of merchantable quality, in accordance with any applicable specifications, and free from the manufacturing defects in workmanship and material which adversely affect the performance of the Product. Should the Product be defective or not as warranted, Seller will repair the Product, replace the Product, or refund the purchase price as Seller shall determine at Seller's expense.

This Limited Warranty shall expire after one (1) year from the date of shipment of the Product to the original Buyer.

#### **EXCLUSIONS**

This warranty shall not apply if the Product has been damaged due to causes beyond normal use such as negligence, improper maintenance or use, accident, abuse, flood, fire or acts of God. Seller shall not be liable for costs or claims incidental to replacing or repairing a defective Product such as labor charges or lost profits, and Seller shall not be liable for any incidental or consequential damages.

With respect to tooling, equipment, or materials furnished by Buyer to Seller for use in filling Buyer's orders, risk of loss to Buyer's property is on Buyer and Buyer shall maintain insurance against loss or damage from fire, theft, or other casualty while such property is in Seller's possession.

THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES, AND THERE IS NO IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR USE OR PURPOSE AND NO IMPLIED WARRANTY OF MERCHANTABILITY.

No statement or recommendation made or assistance given by Seller or its representatives to the Buyer or its representatives or customers in connection with the use or installation, by Buyer or its customers, of any product sold hereunder, shall constitute a waiver by Seller of any provision hereof or affect Seller's liability as herein defined. Any claim under this warranty must be made in forty-five (45) days after a defect is discovered. In any event, a claim must be made within forty-five (45) days following expiration of the warranty period described above. Claims must be made in writing and accompanied by the original invoice. Claims must be mailed to Warranty Claims, President, Basilius, Inc., 4338 South Avenue, Toledo, Ohio 43615. After notification of claim, Seller will make a prompt investigation of the claim and promptly advise the Buyer as to final disposition of the claim.

**Limitation of Liability:** Any liability of Seller will in all cases be limited to a sum equal to the amount invoiced by the Seller for the relevant product which allegedly created or caused the loss or damage.

**Changes and Cancellation:** No conditions, terms or provisions inserted by Buyer in purchasing the Products shall be effective unless the same are accepted in writing by the Seller. Buyer may not cancel a Purchase Order without Seller's written consent.

**Notices:** Any notice shall be sufficiently given when duly mailed postage prepaid, addressed to Seller (Attention: Legal Department) or to Buyer at its respective addresses appearing on the quote or Purchase Order; or to such other address for either party as that party may by notice designate.

**Assignment:** Purchase Orders shall bind the parties and the respective successors and assigns of the parties, but none of Buyer's rights or obligations may be assigned without Seller's prior written consent, except to its subsidiary or affiliated corporation, provided that such assignment shall not relieve the Buyer of its obligations. Any other assignment without Seller's written consent shall be void.

**JURISDICTION:** THE PARTIES AGREE THAT ALL THE PROVISIONS OF THIS PURCHASE ORDER AND ANY QUESTIONS CONCERNING ITS INTERPRETATION AND ENFORCEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF OHIO, U.S.A. AND THE EXECUTION AND DELIVERY OF THIS CONTRACT SHALL BE DEEMED TO BE THE TRANSACTION OF BUSINESS WITHIN LUCAS COUNTY AND THE STATE OF OHIO FOR PURPOSES OF CONFERRING JURISDICTION UPON COURTS LOCATED WITHIN THE STATE. THE PARTIES AGREE THAT ANY LITIGATION ARISING OUT OF THIS CONTRACT SHALL BE BROUGHT ONLY IN THE FEDERAL OR STATE COURTS IN THE STATE OF OHIO AND BOTH PARTIES CONSENT TO THE JURISDICTION OF SAID COURTS AND VENUE IN LUCAS COUNTY, OHIO.

**Waiver:** Any waiver of any particular breach or default of this Purchase Order shall be in writing and shall not constitute a continuing waiver or a waiver of any other breach of default, and acceptance by Seller of any payments with knowledge of any breach or default shall not

constitute such waiver. Any payments to be made or obligations to be performed before, upon, or subsequent to the termination of this Purchase Order shall survive termination of this Purchase Order or if not already made or performed at the date of termination.

**Severability; Headings:** If any provision of these General Terms and Conditions of Sale is or becomes invalid or illegal in whole or in part, such provision shall be deemed amended, as nearly as possible, to be consistent with the intent expressed in this Purchase Order; and if such is impossible, that provision shall fall by itself without invalidating any of the remaining provisions not otherwise invalid or illegal. Paragraph headings or titles are included for ease of reference and do not constitute a part of the text or affect its meaning or interpretation.

**Default; Bankruptcy:** Upon failure of Buyer to make any payment required, without deduction, setoff or counterclaim, within ten (10) days after the same becomes due, or if Buyer defaults in the performance of any other obligation, term or condition of this Purchase Order, or if Buyer shall make an assignment for the benefit of creditors, or in the event of a commencement of proceedings by or against Buyer involving bankruptcy, insolvency, reorganization or arrangement, Seller, without demand or notice of any kind and without prejudice to any other remedy of Seller, may cancel this and any other contract with Buyer (Buyer remaining liable for damages) or Seller may defer further deliveries until the default is remedied (in which event, if Seller elects, this Contract shall be deemed extended for a period of time equal to that during which deliveries are deferred).

**Quotations:** Unless otherwise specified in writing, quotations are fixed only for the time period stated. Thereafter, quotations are subject to change without notice.

**Taxes:** Any tax or governmental charge now or hereafter levied upon the production, sale, use, or shipment of Products ordered or sold may, at Seller's option, be added to the Purchase Price.

**Consignment:** Consignment of Products is not permitted under any condition.