

## Terms and Conditions

### PRICES

The prices set forth on the attached quote or sales order (i) are BI Technologies' domestic prices based upon manufacture of the quantity and type ordered for shipment and end use within the United States and Canada only. All products shipped for end use outside of the United States shall be subject to BI Technologies' international prices, (ii) are subject to revision when interruption, engineering changes or changes in quantity or quality are caused or requested by Buyer, and (iii) do not include warranty service or installation outside the United States and Canada. Clerical errors made by BI Technologies are subject to correction.

### SPECIFICATIONS

Weights and dimensions set forth in sales literature are not guaranteed unless previously certified in writing. BI Technologies may, without affecting the obligations under the sales order, make insignificant changes to the specifications of the product or products delivered under this sales order from those contained in sales literature.

### TERMS OF PAYMENT

Terms of payment on this quote or sales order are net thirty (30) days from date of the invoice unless otherwise specifically stated on the face hereof. Invoices are payable at par on date due at any place of collection designated by BI Technologies in funds bankable at par. All orders are accepted subject to, and the obligation of BI Technologies to make deliveries is subject to, the right in BI Technologies to require of Buyer payment of all or any part of the purchase price in advance of delivery. If Buyer fails to make advance payment when requested to do so by BI Technologies or if Buyer is or becomes delinquent in the payment of any sum due BI Technologies (whether or not arising out of this sales order), then BI Technologies shall have the right in addition to any other remedy to which it may be entitled in law or in equity, to cancel this sales order, refuse to make further deliveries, and declare immediately due and payable all unpaid amounts for goods previously delivered to Buyer. Each shipment shall be considered a separate and independent transaction and payment therefore shall be made accordingly.

### SHIPMENTS

All shipments, unless otherwise specifically provided, shall be f.o.b. point of shipment, and title to and risk of loss for all products shall pass to Buyer upon BI Technologies' delivery of the products to the carrier. The cost of packaging for domestic shipment is included in the quoted price. Where special packaging is specified involving greater expense, a charge will be made to cover such extra expense. All shipments shall be insured, unless specific request is made by Buyer to the contrary and this insurance expense shall be paid by Buyer. All claims for damage or loss of insured shipments should be communicated immediately to BI Technologies for adjustment. Claims as to uninsured shipments should be made to the carrier, but BI Technologies will render all possible assistance in securing satisfactory adjustments of such claims. Shipments shall be made in the manner and by the carrier requested by Buyer, but where questions arise concerning suitability of carriers for handling specific products the decision of BI Technologies must be accepted.

### TERMINATIONS

Upon any termination or cancellations of this sales order by Buyer either in whole or in part, Buyer agrees to promptly pay appropriate termination or cancellation charges invoiced by BI Technologies.

### DELIVERY

The scheduled shipping or delivery date shown on the face hereof is our best estimate of the time the order will be shipped and BI Technologies assumes no liability for loss, general damages, or special or consequential damages due to delays.

### TAXES

Federal, state or local excise, sales or use taxes shall be paid by Buyer.

### PATENTS

BI Technologies agrees to defend any suit or proceeding brought against Buyer so far as based upon an assertion that any product, or any part thereof, sold under this Sales Order constitutes a direct infringement of any United States patent having a claim or claims covering solely the product itself, or any part thereof, or the normal use for which such product or part was designed, if notified promptly in writing and given authority, information, and assistance (at BI Technologies' expense) for the defense of same, and BI Technologies shall pay all damages and costs awarded therein against Buyer. If said product, or any part thereof, is in-such suit held to constitute infringement and the use of said product or part is enjoined, BI Technologies shall, at its own option and at its own expense, either (i) procure for Buyer the right to continue using said product or part, (ii) replace the same with a non-infringing product or part, (iii) modify it so it becomes non-infringing, or (iv) remove said product or part and refund the purchase price and transportation costs thereof. The foregoing obligations of BI Technologies shall not apply to any infringement claim based upon (i) any use of any product sold hereunder in any process (other than a process carried out by such product as an inherent function of such product) or in conjunction with any other product (unless such other product is an accessory especially designed and sold by BI Technologies for use with the product sold hereby) or (ii) any product manufactured to Buyer's design or any product having a design arising out of compliance with Buyer's specifications. The foregoing states the entire liability of BI Technologies for patent infringement by said product. If any suit or proceeding is brought against BI Technologies based on a claim that the goods manufactured by BI Technologies in compliance with Buyer's specifications and supplied to Buyer directly infringe any duly issued United States patent, then the patent indemnity obligations herein stated with respect to BI Technologies shall reciprocally apply with respect to Buyer.

### WARRANTY

Subject to the exceptions and upon the conditions stated below. BI Technologies warrants that the products sold under this sales order shall be free from defects in workmanship and materials for one year after delivery of the products to the original Buyer by BI Technologies, and if any such product should prove to be defective within such one year period, BI Technologies agrees at its option, either (i) to correct by repair or, at BI Technologies' election, by replacement with equivalent product any such defective product, provided that investigation and factory inspection discloses that such defect developed under normal and proper use, or (ii) to refund the purchase price. The exceptions and conditions mentioned above are as follows.

(a) components or accessories manufactured by BI Technologies which by their nature are not intended to and will not function for one year are warranted only to give reasonable time; what constitutes reasonable time and reasonable service shall be determined solely by BI Technologies. A complete list of such components and accessories is maintained at the factory;

(b) BI Technologies makes no warranty with respect to components or accessories not manufactured by it; in the event of defect of any such component or accessory, BI Technologies will give reasonable assistance to Buyer in obtaining from the respective manufacturer whatever adjustment is authorized by the manufacturer's own warranty;

(c) any product claimed to be defective must, if required by BI Technologies, be returned to the factory, transportation charges prepaid, and will be returned to Buyer with transportation charges collect unless the product is found to be defective, in which case BI Technologies will pay all transportation charges.

(d) if the product is a reagent or the like, it is warranted only to conform to the quantity and content and for the period (but not in excess of one year) stated on the label at the time of delivery;

(e) BI Technologies may from time to time provide a special printed warranty with respect to a certain product, and where applicable, such warranty shall be deemed incorporated herein by reference;

(f) BI Technologies shall be released from all obligations under all warranties, either express or implied, if any product covered hereby is repaired or modified by persons other than its own authorized service personnel, unless such repair by others is made with the written consent of BI Technologies.

IT IS EXPRESSLY AGREED THAT THE ABOVE WARRANTY SHALL BE IN LIEU OF ALL WARRANTIES OF FITNESS AND OF THE WARRANTY OF MERCHANTABILITY AND THAT BI TECHNOLOGIES SHALL HAVE NO LIABILITY FOR SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR FROM ANY CAUSE WHATSOEVER ARISING OUT OF THE MANUFACTURE, USE, SALE, HANDLING, REPAIR, MAINTENANCE OR REPLACEMENT OF ANY OF THE PRODUCTS SOLD UNDER THIS SALES ORDER.

Representations and warranties made by any person, including dealers and representatives of BI Technologies, which are inconsistent or in conflict with the terms of this warranty, shall not be binding upon BI Technologies, unless reduced to writing and approved by an expressly authorized officer of BI Technologies.

BI Technologies makes no warranty that Custom Designed Products employing Buyer's circuit design will be free from defects in design except to the extent specifically stated in a BI Technologies quotation or a sales order or contract.

### CONTINGENCIES

BI Technologies shall be entitled to cancel or rescind this sales order without liability for loss or damage resulting therefrom if any product covered by this sales order is purchased for end use outside the United States or Canada or if the performance of its obligations under this sales order is in any way adversely affected by the occurrence of any contingency beyond the control either of BI Technologies or BI Technologies' suppliers, including but not limited to war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof affecting the terms of this sales order otherwise, judicial action, labor dispute, accident, fire, explosion, flood, storm or other act of God, shortage of labor, fuel, raw material or technical or yield failure where BI Technologies has exercised ordinary care in the prevention thereof.

### U.S. GOVERNMENT CONTRACTS

If the products to be furnished under this sales order are to be used in the performance of a U.S. Government contract or subcontract, and a U.S. Government contract number shall appear on Buyer's order, those clauses of the applicable U.S. Government procurement regulation which are required by Federal Statute to be included in U.S. Government subcontracts shall be incorporated herein by reference including, without limitation the Fair Labor Standards Act of 1938, as amended.

### GENERAL

This sales order is made and entered into and shall be governed by the laws of the State of California.

