

**FALCO ELECTRONICS**  
**GENERAL TERMS AND CONDITIONS FOR THE SALE OF GOODS**

**1. Applicability.**

- (a) These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the goods ("**Goods**") by Falco Electronics ("**Seller**" or "**Falco**") to the buyer identified as "bill to" in the purchase order acknowledgement ("**Buyer**") for the Goods. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.
- (b) The accompanying purchase order acknowledgement (the "**Acknowledgement**" and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order ("**Order**") or such terms and even if they were not explicitly rejected. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

**2. Definitions.**

- (a) "Falco Electronics" shall mean Falco Limited and its subsidiaries, affiliates, and licensees.
- (b) "Subsidiary" of Falco Limited shall mean any entity owned and/or controlled, either directly or indirectly, by Falco Limited.
- (c) "Licensee" of Falco Limited shall mean any entity that is a party to a fully executed and active Licensing Agreement, or similar contract, with Falco Limited.

**3. Delivery.**

- (a) The goods will be delivered within a reasonable time after the receipt of Buyer's purchase order. Seller shall not be liable for any delays, loss or damage in transit.
- (b) Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods to the "ship to" address indicated on the Acknowledgement (the "Delivery Point") using Seller's standard methods for packaging and shipping such Goods. Buyer shall take delivery of the Goods within 3 days of Seller's written notice that the Goods have been delivered to the Delivery Point. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point.
- (c) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
- (d) If for any reason Buyer fails to accept delivery of any of the Goods on the date fixed pursuant to Seller's notice that the Goods have been delivered at the Delivery Point, or if Seller is unable to deliver the Goods at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

**4. Non-Delivery.**

- (a) The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

- (b) The Seller shall not be liable for any non-delivery of Goods unless Buyer gives written notice to Seller of the non-delivery within 3 days of the date when the Goods would in the ordinary course of events have been received.
  - (c) Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.
- 5. **Quantity.** If Seller delivers to Buyer a quantity of Goods of up to 5% more or less than the quantity set forth in the Acknowledgement, Buyer shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Sales Confirmation adjusted pro rata.
- 6. **Shipping Terms.** Seller shall make delivery in accordance with the terms on the face of the Acknowledgement.
- 7. **Title and Risk of Loss.** Title and risk of loss passes to Buyer as per the Incoterms stated on the Acknowledgement. As collateral security for the payment of the purchase price of the Goods, Seller reserves all of the right, title, and interest in the Goods, wherever located, until full payment is received by Seller from Buyer.
- 8. **Inspection and Rejection of Nonconforming Goods.**
  - (a) Buyer shall inspect the Goods within 15 days of receipt ("Inspection Period"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "Nonconforming Goods" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.
  - (b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship the Nonconforming Goods to Seller's facility of origin. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer the replaced Goods to the Delivery Point.
  - (c) Buyer acknowledges and agrees that the remedies set forth in Section 8(b) are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 8(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.
- 9. **Price.**
  - (a) Buyer shall purchase the Goods from Seller at the price[s] (the "Price[s]") set forth in Seller's last bona fide quote to Buyer.
  - (b) All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Except as otherwise agreed by the parties and unless prohibited by statute, Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets.
- 10. **Payment Terms.**
  - (a) Buyer shall pay all invoiced amounts due to Seller and shall make all payments hereunder per the payment terms in the Acknowledgement.
  - (b) Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for 15 days following written notice thereof.

- (c) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.
11. **Tooling.** Unless otherwise specified in an Order, all tooling will be furnished and maintained by Seller. As such, title to all tooling furnished and maintained by Seller shall be with the Seller.
12. **Changes.** Buyer may make changes from time to time by written order, which shall be accepted in writing by Seller. If any such change(s) causes an increase in the cost of and/or time required for performance of the Order, any equitable adjustment shall be made in the price or delivery schedule or both, which shall be agreed to in writing by the parties.
13. **Cancellation and Suspension of Work.** Buyer shall only cancel an Order by written notice to Seller within a reasonable time from receipt of the Order. Buyer shall only suspend an Order by written notice to Seller and the suspension shall only be for a reasonable amount of time. This section does not apply to items quoted by Seller in writing as non-cancellable and/or non-returnable ("NCRE"). NCRE items shall not be cancelled or suspended.
- (a) If an Order is cancelled by Buyer pursuant to this section, Buyer shall be liable for the total cost Seller has incurred in the performance of the Order as of the date of the written notice of cancellation, including, but not limited to, finished products, works-in-process, and raw materials fabricated or procured by Seller in order to produce the Goods.
- (b) If the Order is suspended by Buyer, an equitable adjustment shall be made for an increase in the time and the cost for performing under the Order necessarily caused by such suspension, and the Order will be modified in writing accordingly. If the suspension of Order exceeds 30 consecutive days, the Seller may terminate this Agreement with immediate effect upon written notice to Buyer.
14. **Limited Warranty.**
- (a) Seller warrants to Buyer that for a period of 24 months from the date of shipment of the Goods ("Warranty Period"), that such Goods will materially conform to Buyer's published specifications in effect as of the date of manufacture and will be free from material defects in material and workmanship.
- (b) **EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 11(A), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; OR (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**
- (c) Products manufactured by a third party ("Third Party Product") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 11(a).
- (d) The Seller shall not be liable for a breach of the warranty set forth in Section 11(a) unless: (i) Buyer gives written notice of the defect, reasonably described, to Seller within 5 days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the Goods are defective.
- (e) The Seller shall not be liable for a breach of the warranty set forth in Section 11(a) if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of Seller.
- (f) Subject to Section 11(d) and Section 11(e) above, with respect to any such Goods during the Warranty Period, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Goods to Seller.]

- (g) THE REMEDIES SET FORTH IN SECTION 11(F) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11(A).
15. **Buyer Indemnification.** When Seller manufactures goods to Buyer's specifications, Buyer shall indemnify Seller from, and defend and hold Seller harmless from and against, any Losses suffered, incurred or sustained by Seller or to which Seller becomes subject, resulting from, arising out of or relating to any claim: (i) that the Goods infringe upon the proprietary or other rights of any third party (except as may have been caused by a modification by Seller); and (ii) of loss or damage resulting from the Goods and the use thereof.
16. **Limitation of Liability.**
- (a) IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- (b) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED 2 TIMES THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER.
- (c) The limitation of liability set forth in Section 12(b) above shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.
17. **Compliance with Law.** Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance and shall be responsible for obtaining any permits, licenses or other government authorization(s) that are necessary for the import and export of Goods into the designated country of importation specified by Buyer. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.
18. **Amendment and Modification.** These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.
19. **Termination.**
- (a) In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for 30 days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.
- (b) Except for items quoted by Seller in writing as non-cancellable and/or non-returnable ("NCRE"), Buyer may terminate a purchase order in whole or in part only by written notice to Seller.
- (c) If an order is terminated by Buyer or by Seller pursuant to this section, Buyer shall be liable for the total cost Seller has incurred in the performance of the Order as of the date of the written notice of termination, including, but not limited to, finished products, works-in-process, and raw materials fabricated or procured by Seller in order to produce the Goods.

20. **Waiver.** No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
21. **Confidential Information.** All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party. This section shall survive the termination of any Order.
22. **Force Majeure.** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Seller hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, OTHER POTENTIAL DISASTER(S) OR CATASTROPHE(S), SUCH AS EPIDEMICS OR PANDEMICS, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; and (f) national or regional emergency; and (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) shortage of adequate power or transportation facilities; and (i) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within 5 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 30 consecutive days following written notice given by it under this Section 18, the other party may thereafter terminate this Agreement upon 15 days' written notice.
23. **Assignment.** Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.
24. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
25. **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.
26. **Governing Law and Submission to Jurisdiction.** The interpretation and enforcement of these Terms are governed by the laws of the following:
- (a) If the Acknowledgement is issued by Seller's entity in Mexico, all matters arising out of or relating to this Agreement is governed by and construed in accordance with the laws of the State of Florida without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Florida. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or

the courts of the State of Florida in each case located in the City of Miami and County of Miami-Dade, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

- (b) If the Acknowledgement is issued by Seller's entity outside of Mexico (such as but not limited to Europe, India, China or Hong Kong), all matters arising out of or relating to this Agreement is governed by and construed in accordance with the laws of Hong Kong without giving effect to any choice or conflict of law provision or rule (whether of Hong Kong or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of Hong Kong. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in Hong Kong, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.
  - (c) Buyer irrevocably waives and agrees not to raise any objection it might now or hereafter have to any such claim or proceeding in any such court, including any objection that the place where such court is located is an inconvenient forum or that there is any other claim or proceeding in any other place relating in whole or in part to the same subject matter.
27. **Notices.** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Acknowledgement or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
28. **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
29. **Survival.** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction, and Survival.