

## ADI Automated Data Instruments Corp. (DBA ADI) Terms and Conditions

1. **Shortages.** All claims for shortages must be by the Buyer in writing within a period of 48 hours of receipt of product. Unless such notice is given within the stated period of time, Buyer agrees that it shall be conclusively presumed that Buyer has fully inspected the product and acknowledged that no shortage exists.
2. **Title/Risk of Loss.** Title to the product shall pass to Buyer upon delivery of product to the common carrier [at Seller's dock] or any other location directed by Buyer. All risk of loss, damage, theft or destruction to the product shall be borne by the Buyer at F.O.B. shipping point. No such loss, damage, theft or destruction to the product, in whole or in part, shall impair the obligations of the Buyer under this agreement, all of which shall continue in full force and effect.
3. **Security Interest.** Buyer agrees that Seller shall retain a security interest in all product detailed herein and to all product now or hereafter acquired by Buyer, and to any proceeds thereof, until the purchase price and any other charges due to Seller have been paid in its entirety. Buyer agrees to execute any financing statement or other documents that Seller requests in order to protect Seller's security interest. Upon any default by Buyer of this agreement, Seller shall have all rights and remedies of a secured party under the Uniform Commercial code, which rights and remedies shall be cumulative and not exclusive.
4. **Payment.** Unless otherwise agreed in writing by Seller, all credit purchases must be paid in accordance with Seller's normal terms of sale, which are prepaid. All past due amounts are subject to a 1.5% monthly financing charge or the maximum permissible under applicable law. All drafts dishonored for any reason shall be assessed a \$25.00 service charge. In the event that Buyer stops payment on any drafts issued to Seller, for any reason, Buyer hereby recognizes that Seller would suffer damage, the exact amount which cannot be determined with certainty and Buyer shall pay Seller liquidated damages of \$500 for each such draft. In the event that Buyer utilizes a credit card to purchase products, Buyer agrees to not unnecessarily dispute such charges and further agrees to use best efforts to resolve any good faith dispute.
5. **Returns.** The terms for product return are limited to those set forth in Seller RMA policies and procedures. A copy of the original purchase invoice and a return merchandise authorization must accompany all returns from Seller. All returns are subject to a 25% restocking fee and must be received by Seller with the original packing materials and cartons in like-new re-sellable condition. All returns are subject to in-house credit only. The time allowed for returns is 30 days. No cash refunds. All DOA's (dead on arrival) must be reported within 10 days of receipt of product.
6. **Events of Default.** Buyer shall be in default under this agreement upon the happening of any of the following events or conditions: (a) Default by Buyer on payment of any installment, invoice, bill or any other indebtedness or obligation now or hereafter owed by Buyer to Seller under this agreement; (b) Default in the performance of any obligation, covenant or liability contained in this agreement or any other agreement or document with Seller; (c) Any inaccuracy warranty, representation or statement made or furnished by Buyer, and (d) Dissolution, termination of existence, discontinuance of Buyer's business, insolvency, business failure, or appointment of a receiver of any part of the property of, or assignment for the benefit of creditors by Buyer or the commencement of any proceedings under any bankruptcy reorganization or arrangement laws by or against Buyer or the attachment, levy, seizure or garnishment of any of Buyer's property, rights, assets (contingent or otherwise) or the product.
7. **Remedies of Seller.**
  - A. **In General.** Upon the occurrence of any default or at any time thereafter, Seller may, at its option and without further notice, exercise one or more of the following remedies as Seller in its sole discretion shall elect: (1) Demand or, without demand, sue for amounts then due or thereafter accruing under any invoice, bill or other documentation evidencing indebtedness; (2) Suspend deliveries as to any or all product; (3) Take possession of the product wherever found and for this purpose enter upon any premises of Buyer and remove the product, without court order or other process of law, without any liability for damages, suit, action or other proceeding by the Buyer for such entry and/or removal; (4) Cause Buyer, at its expense, to promptly return the product to Seller in good, like-new condition; (5) Sell the goods, or any part thereof at public or private sale (for cash or credit) at such time or times as Seller shall determine, free and clear of any rights of Buyer, and if notice thereof is required by law, any notice in writing of any such sale by Seller to Buyer not less than ten days prior to the date thereof shall constitute reasonable notice thereof to Buyer; (6) Exercise any and all rights accruing to Seller under any applicable contract or law upon a default by Buyer.
  - B. **Mitigation of Damages.** Should Seller repossess any of the product because of a default by Buyer, Seller may make a commercially reasonable effort to sell product at a reasonable price to a third party, provided, however, that Seller shall have no obligation to actively seek out and solicit potential sellers and Buyers for said goods.
  - C. **Collection Costs.** In the event of any default on the part of Buyer hereunder, Buyer shall pay any and all collection costs, including reasonable attorney's fees incurred by Seller.
  - D. **Rights and Remedies Not Exclusive.** No right or remedy conferred upon or reserved to Seller by this agreement shall be exclusive of any other right or remedy herein or by contract or law provided, all rights or remedies conferred upon Seller by this agreement and by law shall be cumulative and in addition to every other right or remedy available to Seller.
8. **Software.** Registered, open, install or software with a seal broken is not returnable. **Computer /POS Systems.** ADI is not responsible for manufacture's shortcomings or defects. Complete systems installed after 30 days are not returnable for any reason.
9. **Indemnification.** The Buyer agrees to and shall indemnify, defend and hold harmless Seller, its employees and agents for and against all claims, lawsuits and losses from any third party using the product provided under this agreement. Any defense provided hereunder shall be by counsel of Seller's choice.
10. **Limitation of Liability.** In the event that a product malfunction leads to damage or injuries to the product, to the Buyer's business, the end-user's business, to other equipment, or residence, or to employees or to other persons, Seller shall not be liable for such damages or injuries. The Buyer understands and agrees that if Seller shall be found liable for loss or damage due from failure of Seller to perform any of Seller's obligations hereunder or the failure of the product in any respect whatsoever, Seller liability shall be limited to \$250.00 and this liability shall be exclusive, and that the provisions of this section shall apply if loss or damage, irrespective of cause or origin, results directly or indirectly to persons or property, from performance or non-performance of Seller obligation, breach of express or implied warranty, or from negligence, active or otherwise, Seller, its agents, servants assignees or employees. In no event shall Seller be responsible for any other damages, including special or consequential damages.
11. **Assignment.** This agreement and all rights, obligations and performance hereunder may not be assigned without prior written consent of Seller.
12. **Waiver.** No failure on the part of Seller to exercise, and no delay in exercising any right hereunder, will operate as a waiver thereof, nor will any single or partial exercise of any right hereunder by Seller preclude any further exercise of any other right.
13. **Severability.** If any section, term, condition or portion thereof shall be found to be illegal or void as being against public policy, it shall be stricken and the remainder of this document shall stand as the original.
14. **Governing Law/Venue.** This agreement shall be constructed and enforced in accordance with the laws of Pennsylvania. All claims, actions, disputes, controversies or suite shall be litigated exclusively in the courts of Pennsylvania.
15. **Entire agreement/Modification.** The parties intend this agreement to be a complete statement of the terms of their agreement and replaces and supersedes any prior agreements between them with respect to the subject matter hereof. No course of prior dealings or usage of trade shall be relevant to amend or interpret this agreement. This agreement may not be changed, modified or amended except by an instrument in writing signed by Seller and Buyer.

***By signing below, customer agrees to all the terms and conditions listed above.***

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Company Name:

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Owner or Officer (Please Print full name and title)

Signature and Date:

