

TERMS AND CONDITIONS OF SALE

1. **GENERAL:** These general terms and conditions of sale of Delta Computer Systems, Inc. (Delta), along with any written Delta quotation, exclusively will govern the sale or licensing by Delta of all goods and services (including hardware, firmware, and software products, training, support, parts and repair services) furnished hereunder. No additions or modifications will be binding on Delta unless agreed to in writing by an authorized representative of Delta.

2. **WARRANTY:** Hardware products will conform to Delta's material specifications and be free of defects in material and workmanship under normal and proper use for a period of two (2) years from date of shipment to Customer by Delta. Repaired or replacement products are similarly warranted for six (6) months or the remainder of the original warranty term, whichever is longer.

Non-warranty repaired or replacement products (which may be new or reconditioned) are warranted to be free of defects in materials and workmanship for six (6) months from date of shipment from Delta.

Standard firmware and software will perform in accordance with Delta's published specifications when used with Delta-specified hardware for a period of two (2) years from date of shipment to Customer by Delta. Delta makes no representation or warranty, express or implied, that the operation of the firmware or software will be uninterrupted or error-free, or will meet or satisfy the Customer's intended use or requirements. Corrections are warranted for a period of six (6) months or the remainder of the original warranty term, whichever is longer.

Delta's sole liability under this warranty shall be, at Delta's discretion, to repair or replace product found defective or to issue Customer credit for the purchase price of defective product. Customer may obtain service under this warrant if: a) within the warranty period Customer notifies Delta of the defective product and obtains a Return Material Authorization (RMA) from Delta; b) Customer returns product to Delta, postage prepaid, in compliance with the RMA instructions, and c) Delta, upon inspection, confirms the existence of the defect, and determines that the product has not been subject to misuse, neglect, accident, or improper installation, operation, or application, or has been repaired or altered by others. Any warrantee service (consisting of time, travel and expenses relating to such services) performed other than at Delta, will be at Customer's expense.

THIS WARRANTY IS IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED. DELTA DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. DELTA'S RESPONSIBILITY TO REPAIR OR REPLACE DEFECTIVE PRODUCTS IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO THE CUSTOMER FOR BREACH OF THIS WARRANTY.

3. LIMITATION OF LIABILITY: IN NO EVENT SHALL DELTA OR ITS DISTRIBUTORS OR VENDORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR CONNECTED WITH CUSTOMER'S PURCHASE OR USE OF ANY PRODUCT, EVEN IF DELTA OR THE DISTRIBUTOR OR VENDOR HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

4. **PRICES:** Price and other information in Delta publications (written or electronic) is subject to change without notice and confirmation by specific quotation. Prices are exclusive of taxes, shipping, and insurance.

5. **QUOTATIONS:** Unless otherwise indicated, quotations are valid for 30 days. Errors are subject to correction.

6. **PURCHASE ORDERS:** Customer's submission of a purchase order shall be deemed acceptance of these terms and conditions to the exclusion of any other terms and conditions appearing in the purchase order. Delta's acknowledgement of Customer's purchase order is expressly made conditional upon Customer's assent to these terms and conditions, which assent shall be presumed conclusively from Customer's acceptance of any or all of the products ordered.

7. **SHIPPING, DELIVERY, AND INSURANCE:** Delta will use its best efforts to ship on or before the estimated shipping dates indicated in Delta's acknowledgement.

In the US, delivery shall be FOB Delta. Outside of the US, delivery shall be FCA Delta. In the absence of specific written instructions from Customer, Delta will select the carrier, but Delta shall not thereby assume any liability in connection with the shipment. If such shipments are insured, Delta will bill Customer an insurance charge for each shipment.

8. **EXPORT COMPLIANCE:** Customer shall comply with all export control laws, restrictions, and regulations.

9. **PAYMENT:** Payment terms are prepayment or cash upon delivery, or, at Delta's option, net 30 days from the date of the invoice. All payment shall be in United States dollars.

A late payment charge equal to 1½ % (not to exceed the highest amount allowed by law) of the delinquent balance due per month shall apply to all overdue accounts.

Should Customer become delinquent in the payment of any amount due Delta reserves the right to suspend performance under any outstanding order.

10. **TITLE, RISK OF LOSS, AND SECURITY INTEREST:** Title and risk of loss for all products shall pass to Customer upon tender of the products by Delta to the carrier, except that title to all intellectual property associated with the products (such as firmware and software) remains with Delta. Delta also reserves a security interest in each product until the entire amount due has been paid.

11. **TAXES:** All state and local sales, use, excise, and similar taxes imposed on Delta or which Delta has a duty to collect in connection with the sale, delivery, or use of any product will appear as separate additional items on the invoice and will be paid by Customer. If sales are exempt from such taxes, Customer shall furnish to Delta a certificate of exemption from the applicable taxing authority.

12. **WAIVER:** The failure of either party to enforce at any time any provision of these terms and conditions shall not be construed to be a waiver of such provision or the right thereafter to enforce each and every provision. No waiver by either party, either express or implied, of any breach of any of these terms and conditions shall be construed as a waiver of any other breach of such term or condition.

13. **OWNERSHIP:** Title to all intellectual property rights associated with Delta product (including, but not limited to firmware and software) remains with Delta. Any modifications to products, or special versions of products, will become the sole property of Delta, even if such modifications or special versions are made by request of Customer and paid for, all or in part, by Customer, unless Delta specifically agrees otherwise in writing.

14. **ASSIGNMENT:** Customer may not assign or transfer its rights or obligations hereunder without the prior written consent of Delta.

15. **GOVERNING LAW:** The rights of the parties hereunder shall be governed by the laws of the State of Washington.

16. **ATTORNEY FEES:** In the event of litigation or dispute between the parties concerning collection of amounts due for the sale of goods or services hereunder, the prevailing party shall be entitled to recover its reasonable attorney's fees and any allowable costs or fees.