

RAYCON TECHNOLOGY, INC. TERMS AND CONDITIONS OF SALE

Raycon Technology, designated below as Seller, accepts and will fill orders only upon the terms and conditions appearing below.

1. **ENTIRE AGREEMENT:** Any of the terms and provisions of Buyer's order which are inconsistent with the terms and provisions hereof shall not be binding on Raycon Technology and shall not be considered applicable to the sale of the products mentioned herein. Unless Buyer shall notify Raycon Technology in writing to the contrary within ten (10) days after receipt of this form, acceptance by Buyer of these terms and conditions shall be inferred and, in the absence of such notification, the shipment by Raycon Technology of the products covered hereby shall be conclusively deemed to be subject to the terms and conditions hereof. No modification hereof shall be valid unless in writing and duly signed by a person authorized by Raycon Technology.
2. **PRICES:** Prices are subject to change without notice and adjustment to Raycon Technology's prices in effect at time of order placement. Unless otherwise specified on the order, prices are for the specific quantity stated and do not include taxes nor charges for transportation, handling, engineering documents, tooling, special packaging, marking or testing.
3. **VARIATION IN QUANTITY:** Normal manufacturing processing variation of total order quantity per item is plus 2% minus 5%. Buyer agrees to accept and pay for overages up to 2% of item order quantities. Orders with shipments of 95% or more of the order quantity shall be considered complete and the Buyer shall be invoiced for the actual quantity shipped.
4. **MINIMUM ORDER:** \$100 per order unless otherwise specified.
5. **QUANTITY DISCOUNTS:** When quantity price discounts are quoted, they are computed separately for each type of product or equipment, and are based on the quantity of each type and each size ordered at any one time for immediate delivery. If any order is reduced or cancelled, it is agreed that prices will be adjusted upward to the higher prices, if applicable, for the uncanceled quantity.
6. **ORDER SCHEDULING:** Orders are to be scheduled for delivery within 12 months from order date. Products containing precious or volatile price materials are priced for shipment within 6 months after order date and thereafter are subject to price adjustment to the then prevailing prices. Subject to the above time restrictions, one reschedule per order will be allowed at no charge and a \$25.00 charge shall apply to each schedule change thereafter.
7. **ADD-ON QUANTITIES:** Change orders or additional orders for identical items received within 7 days of the original order may be combined for quantity price advantage, if any.
8. **QUALITY LEVEL:** Prices are based on quality levels commensurate with normal processing. If a different quality level is required, Buyer must specify his requirements and pay any additional costs that may be applicable.
9. **TAXES:** Unless prohibited by statute, Buyer agrees to pay Raycon Technology the amount of any Federal, State, City, or other tax, import or export duty, tariff or customs charge levied by any jurisdiction either inside or outside of the United States which Raycon Technology may be required to pay on account of the ownership at the place of installation, or the manufacture, transportation, sale or use of the material and equipment which is the subject of this contract.
10. **TERMS:** Unless otherwise stated, payment terms are net 30 days from date of invoice, subject to approval by Raycon Technology of amount and terms of credit. Pending correction of any objectionable credit situation, Raycon Technology may withhold shipments without incurring any liability to Buyer. When partial shipments are made, payments therefore shall become due in accordance with the designated terms of the invoice. If, at the request of Buyer, shipment is postponed for more than 30 days, payment will become due 30 days after notice to Buyer that products are ready for shipment. A service charge of 1 ½% per month on the unpaid balance shall be imposed on all accounts not paid when due.
11. **SHIPMENT:** All shipments will be made F.O.B. the Raycon Technology factory unless otherwise specified. In the absence of specific instructions, Raycon Technology will select the carrier. Title to the material shall pass to the Buyer upon delivery thereof by Raycon Technology to the carrier or delivery service. Thereupon, the Buyer shall be responsible thereafter. Products held for Buyer, or stored for Buyer, shall be at the risk and expense of Buyer. Claims against Raycon Technology for shortages must be made within 10 days after arrival of shipment.
12. **DELIVERY:** Raycon Technology acknowledged shipping dates are approximate. If Buyer's order does not cite desired delivery date(s) and/or does not expressly prohibit delivery in advance of schedule date(s), Buyer agrees that immediate delivery is acceptable. If conditions arise which prevent compliance with delivery schedules, Raycon Technology shall not be liable for any damage, general, consequential or otherwise, for delay in delivery, or for failure to give notice of delay, and such delay shall not constitute grounds for cancellation. Without limiting the generality of the foregoing, Raycon Technology shall under no circumstances be responsible for failure to fill any orders when due to failure to obtain export licenses, fires, floods, earthquakes, riots, strikes, freight embargoes or transportation delays, shortage or labor, inability to secure fuel, material supplies or power or other energy requirements or on account of shortages thereof; acts of God or of the public enemy, any existing or future laws or acts of the Federal or of any State Government (including specifically, but not exclusively, any orders, rules or regulations issued by any official of any such government) affecting the conduct of Raycon Technology's business which Raycon Technology in its judgment and discretion deems it advisable to comply with either as a legal or patriotic duty, or to any other cause beyond Raycon Technology's reasonable control.
13. **ENERGY:** The price, specifications and delivery schedules set forth in this order assume that materials and energy will continue to be available at not less than present levels. And that Raycon Technology and its sub-contractors and suppliers will continue to have any of the foregoing as a direct or indirect result of the situation commonly known as the "Energy Crisis," whether resulting from Governmental action or otherwise, shall render this order subject to equitable adjustment as to delivery to reflect the impact thereof, to the extent that any such reduction has a material effect on Raycon Technology's costs, the price will be subject to equitable adjustment.
14. **INSPECTION AND ACCEPTANCE:** Unless Buyer notifies Raycon Technology in writing within 30 days from the date of shipment of any products that said products are rejected, they will be deemed to have been accepted by Buyer. In order for the notice of rejection to be effective, it must also specify the reason(s) why the products are being rejected.
15. **PRODUCT WARRANTY:**

- A. Warranty: Raycon Technology warrants that at the time of shipment the products manufactured by Raycon Technology and sold hereunder will be free from defects in material and workmanship, and will conform to the specifications furnished by or approved by Raycon Technology.
- B. Warranty adjustment:
- (1) If any defect within this warranty appears, Buyer shall notify Raycon Technology immediately.
 - (2) Raycon Technology agrees to repair or furnish a replacement for, but not install, any product, which within ninety (90) days from the date of shipment by Raycon Technology shall, upon test and examination by Raycon Technology, prove defective within the above warranty.
 - (3) No product will be accepted for return or replacement without prior written authorization of Raycon Technology. Upon such authorization, and in accordance with instructions by Raycon Technology, the product will be returned and shipping charges prepaid by Buyer. Replacements made under this warranty will be shipped prepaid.
- C. Exclusions from Warranty:
- (1) THE FOREGOING WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER EXPRESSED OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS, OR OTHERWISE.
 - (2) Components purchased by Buyer from any supplier other than Raycon Technology shall bear only the warranty given by the manufacturer of the products, and Raycon Technology assumes no responsibility for the interface of its product with any other product.
 - (3) RAYCON TECHNOLOGY WILL NOT BE LIABLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES OR FOR LOSS, DAMAGES, OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM THE USE OF THE PRODUCTS OR ANY INABILITY TO USE THEM EITHER SEPERATELY OR IN COMBINATON WITH ANY OTHER EQUIPMENT OR MATERIAL OR FROM ANY OTHER CAUSE.
 - (4) The warranty does not extend to any product manufactured by Raycon Technology, which has been subjected to misuse, neglect, accident, improper handling or installation, or to use in violation of instructions furnished by Raycon Technology.
 - (5) The warranty does not extend to or apply to any unit, which has been repaired or altered at any place other than at Raycon Technology's factory or by persons not expressly approved by Raycon Technology.

16. RETURNED MATERIAL POLICY

- A. Returned material authorization: No product may be returned to Raycon Technology without prior written authorization from Raycon Technology in the form of an RMA (Returned Material Authorization form). Raycon Technology's RMA number must appear on the outside of all shipping cartons.
- B. Returned material time limits: Raycon Technology will not accept return of any product outside ninety (90) days from Buyer's receipt of product. All sales after a period of ninety (90) days are considered final and non-returnable.
- C. Special "NCNR" product: Any product that is identified as "NCNR" (Non-Cancelable, Non- Returnable) on the original Raycon Technology quotation will be considered a Special Item which is not returnable to Raycon Technology at any time, provided that it is free from defects in material and workmanship.
- D. Trade Credit: Raycon Technology will apply a trade credit to a customer's account for all returned material. Raycon will not issue payment for returned material.

17. PATENT INDEMNITY:

- A. Patent indemnity by Raycon Technology to Buyer: Raycon Technology agrees to indemnify and hold harmless the Buyer from and against all legal expenses which may be incurred as well as damages and costs (except all consequential and special damages and costs) which may be finally assessed against the Buyer in any action for infringement of any United States Letters Patent by the items delivered to Buyer hereunder; provided that the Buyer shall give Raycon Technology prompt written notice of any action, claim or threat of patent infringement suit, either oral or written, or of the commencement of any patent infringement suit, either oral or written, or of the commencement of any patent infringement suit against Buyer relating to items sold by Raycon Technology to Buyer hereunder; and provided Buyer shall claim, action, or suit through counsel of Raycon Technology's own choice and under its sole direction and at its sole expense, and provided that in the event Raycon Technology elects to take over, defend or settle same, Buyer will make available to Raycon Technology all defenses against any such claim, action, suit or proceeding known to or available to Buyer; and provided further that Raycon Technology shall have the right to substitute any such item or any part thereof claiming to infringe the patent rights of others, non-infringing items which will give equally good service. If the use of any such item or any part thereof should be enjoined, Raycon Technology shall have the right at its own expense to take any of the following courses of action:
- (1) To procure for Buyer the right to continue using such item; or
 - (2) To replace said item with a non-infringing item; or
 - (3) To modify the item so that it becomes non-infringing; or
 - (4) To remove said item and refund the purchase price and the transportation and installation costs thereof.

Limitation: The foregoing provisions as to patent protection by Raycon Technology to Buyer shall not apply to any of the following:

- (1) To any items manufactured to the design or specifications furnished by the Buyer.
- (2) To orders for special non-commercial items which Raycon Technology has not sold or offered for sale to the public on the open commercial market.

- (3) To any infringement occasioned by modification by Buyer for any item without Raycon Technology's written consent, or any infringement arising from the use of an item with any adjunct or device added by the Buyer without Raycon Technology's written permission.

B. Patent indemnity by Buyer to Raycon Technology: To the extent that items delivered hereunder are manufactures pursuant to detailed designs furnished by Buyer, Buyer agrees to indemnify Raycon Technology and hold Raycon Technology harmless from all legal expenses which may be incurred as well as all damages and costs which may finally be assessed against Raycon Technology in any action for infringement of ay United States Letters Patent by such items delivered hereunder. Raycon Technology agrees to promptly inform the Buyer if any claim for liability made against Raycon Technology with respect to such items and Raycon Technology agrees to cooperate with the Buyer n every way reasonable available to facilitate the defense against any such claim.

18. MODIFICATIONS: Unless otherwise provided, Raycon Technology reserves the right to modify product specifications of products ordered by the Buyer herein providing that the modification will not materially affect form, fit or function.
19. TOOLING: Unless otherwise expressly provided, Raycon Technology shall retain title to and possession of any models, patterns, dies, molds, jigs, fixtures, tools and test equipment made for or obtained for the performance of this order.
20. TERMINATION: In the event of the complete or partial termination or cancellation of this order for the convenience of the Government, settlement shall be made by negotiations in accordance with Section 52.249-2 of the Federal Acquisition Regulations, Termination For Convenience of the Government (Fixed Prices), in existence as of the date of this agreement. The words "Government" and "Contracting Officer" shall mean Buyer, the word "Contract" shall mean this order, and the word "Contractor" shall mean Raycon Technology. Delete subparagraph (c). In paragraph (d), delete "one year" and substitute "six months." In paragraph (k), delete "90 days" and substitute "45 days." In the event Buyer attempts to terminate or cancel this order, in whole or part, where it is not for the convenience of the Government, it shall constitute a breach of contract unless consent to such termination or cancellation is obtained by Buyer from Raycon Technology in writing. In any event, the price of all items delivered and all items which have been finished, but not yet delivered, will be adjusted upward to the applicable quantity break, if any, for the lower quantities.
21. GOVERNING LAWS: The terms of this Agreement and all rights and obligations hereunder, shall be governed in accordance with the laws of the State of California. Buyer hereby consents and submits to the jurisdiction of the appropriate courts in the State of California for adjudication of any question of law or fact arising hereunder.
22. LIMITATIONS OF LIABILITY: Seller will not be liable for any loss, damage, cost of repairs, incidental or consequential damages of any kind, whether or not based upon express warranty or implied warranty (except for the obligations assumed by Seller under the Product Warranty Clause), contract negligence, or strict liability arising in connection with the design, manufacture, sale, use or repair of the product. In no event will Seller be liable to Buyer for any amount in excess of the purchase price of the product, which proves to be defective.
23. SUPPLEMENTAL CLAUSES FOR EXPORT ORDERS:
 - A. Currency: the prices quoted herein are payable in U.S. Dollars.
 - B. Proof of Export: The products are to be purchased only for export and the Purchaser agrees to furnish Raycon Technology with proof of exportation of all or any part of such products within five months from the date of the Raycon Technology invoices, therefore if exportation of any part shall not have occurred within that period, Purchaser agrees to pay Raycon Technology upon demand, the amount of any manufacturer's excise tax or other tax which now or hereafter may be imposed on the sale of such products for consumption within the United States.
 - C. License and Permit Requirements:
 - (1) Raycon Technology will secure all export licenses and permits required by the United States Government, and Buyer will furnish reasonable cooperation in acquiring such licenses and permits. If such licenses and permits are not paid for by Buyer, such payments will be added to the contract price.
 - (2) Buyer will secure all licenses and permits required by the foreign government, and Raycon Technology will furnish reasonable cooperation in acquiring such licenses and permits. The delivery schedule is contingent upon securing all necessary licenses and permits.
 - (3) Failure to obtain a required license or permit in sufficient time to permit delivery within the time set forth in the contract and without fault or negligence of the contracting parties, shall occasion an equitable adjustment in the delivery schedule.