

**Sparcz Engineering, Inc.**  
**Terms and Conditions of Sale**

Each quote issued by Sparcz Engineering Inc. and the acceptance of any purchase order by Sparcz Engineering Inc. for Sparcz Engineering, Inc. products and services is governed by the following Terms and Conditions. Any order accepted by Sparcz Engineering Inc. shall be referred to herein as the purchase order.

1. **GOVERNING TERMS AND CONDITIONS.** Except for an order which specifies only quantity and requested delivery terms and is part of an accepted order, no other term which differs from or adds to these terms and conditions shall be binding upon Sparcz Engineering Inc. Any other or different terms and conditions proposed by buyer are hereby expressly rejected. The placement by buyer of any order shall constitute acceptance of these terms and conditions.
  
2. **TITLE, DELIVERY AND INSPECTION.** Products shall be delivered FCA (Incoterms 2010) Sparcz Engineering Inc. facility unless otherwise agreed in a writing signed by Sparcz Engineering Inc. Title and liability for loss or damage shall pass to buyer upon tender of goods to common carrier for shipment to buyer. Shipping dates are approximate only. Sparcz Engineering Inc. shall not be liable for any costs or damages (incidental, consequential, special or otherwise) for Sparcz Engineering Inc.'s failure to meet delivery dates. Delays experienced by Sparcz Engineering Inc. in obtaining a validated export license shall be deemed excusable and beyond the reasonable control of Sparcz Engineering Inc. Buyer shall have a reasonable time, not to exceed thirty (30) days to inspect goods delivered and to notify Sparcz Engineering Inc. of any discrepancies. Failure of buyer to give notice under these terms shall be deemed acceptance of the applicable goods.
  
3. **PAYMENT TERMS.** All payments shall be made in U.S. funds. Sparcz Engineering Inc. may extend or withhold credit to buyer at Sparcz Engineering Inc.'s sole discretion. Where credit is extended to buyer, terms of payment shall be net thirty (30) days from date of invoice. Credit may be withdrawn or subsequent shipments held by Sparcz Engineering Inc. at any time for late payment. Buyer shall pay interest at the rate of 1.5% per month from date of invoice for late payment. Sparcz Engineering Inc.'s prices are exclusive of all taxes and duties. Without limitation of the foregoing, responsibility for all customs duties and charges, sales taxes, use taxes, value-added taxes and any other taxes imposed by any federal, state, local or municipal taxing authority (excluding any taxes solely on Sparcz Engineering Inc.'s income), shall be borne solely by buyer.
  
4. **CUSTOMER SATISFACTION.** Sparcz Engineering Inc. guarantees customer satisfaction through its warranty policy on all products and services sold. Sparcz Engineering Inc. warrants that all products and services will be free from defects in materials and workmanship for a period of one (1) year from the date of original purchase. If any product or service shall fail during this warranty period, Sparcz Engineering Inc. will repair, replace or exchange it without charge.
  - A. **Shipping Charges.** Sparcz Engineering Inc. will, upon its receipt of any product under warranty, pay all shipping charges to send the repaired, replaced or exchanged product to the original point of shipment.
  
  - B. **Products Manufactured by Others.** Products manufactured by others are subject to the warranty, if any, of their respective manufacturers, and are to be repaired only by a respective authorized service person for such products. Sparcz Engineering Inc. shall have no obligation to undertake repairs of products manufactured by others.
  
  - C. **Applicability.** The warranty described above does not apply to products manufactured by third parties, products for which necessary components are no longer available on a commercially reasonable basis, or any Sparcz Engineering Inc. product damaged by accident, abuse, misuse, natural disaster or by any unauthorized disassembly, repair or modification. If there are any questions regarding power, intended application, or general usage of any Sparcz Engineering Inc. product, please consult with your Sparcz Engineering Inc. sales contact.
  
  - D. **No Extension of Statute of Limitations.** Any repairs performed under Sparcz Engineering Inc.'s warranties shall not in any way extend the statute of limitations for claims under such warranty.
  
  - E. **Waiver of Other Warranties.** The expressed warranty set forth in this limited warranty are in lieu of and exclude any and all other warranties, expressed or implied, including, but not limited to, the implied warranties of infringement, merchantability and fitness for a particular purpose.

F. Procedure for Warranty Performance. For any warranty claim, the buyer must provide Sparcz Engineering Inc. with the applicable model and serial numbers (if applicable), the date of purchase, and the nature of the problem. Sparcz Engineering Inc., in its discretion, may also require that the buyer return to Sparcz Engineering Inc. the product being covered under warranty.

G. Authority to Alter Warranty. The president of Sparcz Engineering Inc. has the only authority to alter the terms of this warranty. Warranty may be altered only in writing by president of Sparcz Engineering Inc.

5. LIMITATIONS OF LIABILITY

A. NO INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. Sparcz Engineering Inc.'s sole obligations under its warranty are set forth above in paragraphs A through G. In no event shall Sparcz Engineering Inc. be liable to the buyer or any other person for any indirect, special, incidental, consequential, or lost profits, losses or damages or for any financial or economic loss connected with the use of the product or service ordered under these terms and conditions. Such damages for which Sparcz Engineering Inc. shall not be responsible include, but are not limited to, lost time and convenience, loss of use of the product or service, the cost of a product rental, costs of gasoline, telephone, travel or lodging, the loss of personal or commercial property, loss of contracts, loss of production, and the loss of revenue.

B. NO LIABILITY IN EXCESS OF PURCHASE PRICE. In no event shall Sparcz Engineering Inc.'s aggregate liability with respect to any product or service sold exceed the purchase price of such product or service plus any shipping charges that Sparcz Engineering Inc. may be obligated to pay pursuant to paragraph A above. The remedies of the buyer under these terms and conditions shall be exclusive and in lieu of any other remedy at law or in equity.

6. EXPORT CONTROL. All Sparcz Engineering Inc. quotes and all buyer purchase orders issued for Sparcz Engineering Inc. products and services are subject to all U.S. Export Regulations, including, without limitation, the International Traffic in Arms Regulations (ITAR) administered by the U.S. Department of State's Directorate of Defense Trade Controls, and the Export Administration Regulations (EAR) administered by the Department of Commerce's Bureau of Industry and Security. Sparcz Engineering Inc.'s performance on any resulting sale or contract is contingent on strict compliance with these regulations as applicable and may require prior written approval from the U.S. Government (USG) before Sparcz Engineering Inc. can execute the terms and conditions of the purchase order. Sparcz Engineering Inc. shall not be liable for delays resulting from the actions or inaction of any USG agency. Buyer agrees to comply with the terms and conditions of all U.S. Export and Re-export Regulations, and U.S. Government written approvals related to this purchase order. Buyer agrees to indemnify and hold harmless Sparcz Engineering Inc. for all claims, losses, or damages, including, without limitation, reasonably attorneys' fees and expenses, incurred by Sparcz Engineering Inc. as a result of any failure by buyer to comply with this Section 6.

7. RIGHTS IN INTELLECTUAL PROPERTY. Other than non-recurring engineering service outputs, all drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights, trademarks, patents and applications therefor, and other information or intellectual property ("IP") disclosed or otherwise provided to buyer by Sparcz Engineering Inc., and all rights therein, are and will remain the property of Sparcz Engineering Inc. Buyer shall have no claim to nor ownership interest in any IP and such information, in whatever form and any copies thereof, and shall promptly return the IP to Sparcz Engineering Inc. upon written request from Sparcz Engineering Inc. Buyer acknowledges that no license or rights of any sort are granted to buyer hereunder in respect of any IP, other than limited right to use the deliverables purchased from Sparcz Engineering Inc.

8. COMPLIANCE WITH LAWS. Buyer represents and covenants that, at all times, buyer's use, sale, marketing and export of all Sparcz Engineering Inc. products and services shall be in accordance with all applicable laws, rules, and regulations of the United States and of any other applicable jurisdictions, including without limitation, the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions and regulations of the United States or any applicable foreign government, agency or authority. Buyer will not export or re-export, or authorize the export or re-export of any Sparcz Engineering Inc. product, technology or information it obtains or learns from Sparcz Engineering Inc. in violation of any laws, restrictions or regulations.

9. APPLICABLE LAW. The validity, performance and construction of this contract shall be governed by the internal laws of the State of New York, United States of America, without regard to principles of conflicts of law. The rights and obligations of the parties with respect to this quote and any purchase order issued for Sparcz Engineering Inc. products or services shall not be governed by the provisions of the 1980 United Nations convention on contracts for the international sale of goods.

10. **CANCELLATION.** Accepted orders may be cancelled subject to the provisions of this Section 10. Any order for Sparcz Engineering Inc. product or service may be cancelled with penalty. In the event of a customer cancellation, Sparcz Engineering Inc. shall have the right to charge a cancellation fee equal to fifty percent (50%) of the purchase price payable with respect to the cancelled order. Such cancellation fee is intended to reimburse Sparcz Engineering Inc. for its costs incurred in preparing to meet buyer's requested delivery schedule, including, without limitation, Sparcz Engineering Inc.'s commitments to its suppliers, and the cost of non-stock inventory (raw materials, work-in-process and finished products) allocated to buyer's order together with an allowance for termination costs.

11. **ARBITRATION.** Any dispute or claim arising out of or pursuant to this quote or any purchase order for Sparcz Engineering Inc. product or service shall be submitted to final and binding arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "Rules") by one arbitrator appointed in accordance with the Rules. The site of such arbitration proceedings shall be in Buffalo, New York. Judgment upon any award rendered in such arbitration may be entered in any court of competent jurisdiction. This provision shall not limit either Sparcz Engineering Inc.'s or the buyer's right to obtain any provisional or equitable remedy, including, without limitation, injunctive relief from any court of competent jurisdiction, as may be necessary in the sole judgment of Sparcz Engineering Inc. or the buyer, as the case may be, to protect its rights hereunder.

12. **SEVERABILITY.** If any term, provision, covenant or condition of this contract is held to be invalid, void or unenforceable by a court of competent jurisdiction, the remainder of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

13. **NONWAIVER OF DEFAULT.** Each shipment hereunder shall be considered a separate transaction. In the event of any default by buyer, Sparcz Engineering Inc. may decline to make further shipments. If Sparcz Engineering Inc. elects to continue to make shipments, Sparcz Engineering Inc.'s actions shall not constitute a waiver of any default by buyer or in any way affect Sparcz Engineering Inc.'s legal remedies for any such default.

14. **ASSIGNMENT.** This contract shall not be assigned by buyer without the prior written consent of Sparcz Engineering Inc. If consent is given, this contract shall be binding upon and inure to the benefit of the assigns.

15. **ENTIRE AGREEMENT.** This contract constitutes the entire agreement between the parties relating to the sale of goods described herein and supersedes all previous communications, representations or agreements, either oral or written. This agreement may be changed only by modification, in writing, signed by the buyer and a duly authorized Sparcz Engineering Inc. representative. No course of dealing or trade practice shall act to modify or interpret any terms expressed in this agreement.

Rev.	Nature of changes	Approval	Date
NR	Original Issue.	David Dulanski	07/19/2022