

## **HITECH GLOBAL TERMS AND CONDITIONS OF SALE**

The terms and conditions detailed herein ("Agreement") apply to your ("Customer") purchase from HiTech Global LLC. ("HiTech Global") of HiTech Global's products ("Product(s)"), as well as HiTech Global services and support ("Services"). This agreement shall apply unless customer and HiTech Global have entered into a separate signed agreement applicable to the purchase of the products or services. By placing an order with HiTech Global, customer agrees to be bound by the terms of this agreement. HiTech Global expressly objects to and rejects any terms and conditions in customer's purchase order or other similar document. If you do not agree with these terms, promptly notify HiTech Global and return the product unused in its original packaging to HiTech Global.

**1. Prices & Orders.** Price of some products are either posted on [www.HiTechGlobal.com](http://www.HiTechGlobal.com) (main web site) or [www.HiTechGlobal.us](http://www.HiTechGlobal.us) (online store). Price of other products must be obtained by contacting HiTech Global's sales. All orders are subject to acceptance at the sole discretion of HiTech Global. HiTech Global provides order acknowledgement to Customer through email notification. HiTech Global shall not be bound by changes to an order unless reviewed and agreed by HiTech Global in writing. HiTech Global reserves the right to cancel any order if any information provided by Customer to HiTech Global is inaccurate or in violation of the United States of America's trade policies.

**2. PAYMENT.** Payment is due at the time the order is placed. If Customer is approved for credit, payment shall be due within thirty (30) days from the date of invoice ("Invoice Date"). Payment shall be in the currency listed on the HiTech Global invoice. All sums not paid when due shall accrue interest daily at a monthly rate of the lesser of 2% or the highest rate permissible by law. If there are multiple units in an order, each unit will be invoiced when shipped. For orders with \$200K and above, deposit payment of the first 50% of the total shall be collected in advance.

**3. DELIVERY, TITLE AND RISK OF LOSS.** Title and risk of loss to Products shall pass to Customer upon shipment from HiTech Global, its warehouses, or HiTech Global affiliated companies; provided however, HiTech Global retains a security interest and right of possession in the Products until Customer makes payment in full. Shipping fees and insurance are prepaid by Customer and added to the total invoice amount. Shipping and insurance fees are non-refundable. If the order is placed with HiTech Global from outside the U.S., Customer is responsible for all duties, fees, customs, formalities and clearances, and not HiTech Global. Shipment dates provided by HiTech Global are estimates only, and HiTech Global shall have no liability for losses or claims resulting from late delivery of Products. Claims for shipment shortage shall be deemed waived unless presented to HiTech Global in writing within thirty (30) days of Invoice Date.

**4. TAXES.** Prices exclude, and Customer is responsible for, any sales, use, service, value added, and like taxes ("Taxes") arising from the purchase of the Products and Services. If Customer is exempt from any Taxes, it must provide HiTech Global with the appropriate formal tax exemption documentation at the time the order is placed.

**5. SOFTWARE AND IP CORES.** Software/IP Cores are licensed pursuant to the software license agreements provided with the software. All software is licensed, not sold, and title to the software remains with the applicable licensor(s).

**6. DESIGN SERVICES.** Services provided by HiTech Global are also subject to any service agreements or statements of work agreed upon in writing by the parties.

**7. RETURN POLICY.** Customer may return standard Products purchased from HiTech Global for a refund of the purchase price paid within seven (7) days of the Invoice Date; provided that the Product is (a) returned with all accessories in the original packaging; (b) free from any damage; and (c) accompanied with the original invoice. HiTech Global reserves the right to charge Customer a fifteen percent (15%) restocking fee for any opened or used Products. No returns will be accepted after the seven (7) day period has expired. A Return Material Authorization (RMA) number is required for Customer to return any Products. Acceptance of returns of customized Products and Non-HiTech Global Branded Products is in the sole discretion of HiTech Global.

**8. LIMITED WARRANTY.** For a period of Ninety (90) days from the Invoice Date, HiTech Global warrants that its Products will be free of defects in materials and workmanship that cause the Products to fail to substantially conform to the applicable HiTech Global published specifications. If HiTech Global receives notice of a defect or non-conformance during the applicable warranty period, HiTech Global will, in its discretion: (i) repair or replace the affected Product, (ii) re-perform the affected Services, or (iii) refund the fees paid for the affected Product or Service. Repaired or replaced Products will be warranted for the remainder of the original warranty period. If HiTech Global elects to repair or replace Products, HiTech Global may use new or refurbished parts or products that are equivalent to new in performance and reliability and are at least functionally equivalent to the original part or Product. Customer must obtain an RMA number from HiTech Global before returning any Product under warranty to HiTech Global. Customer will pay shipping expenses to send the affected Product to HiTech Global, and HiTech Global will pay shipping expenses to return the Product to the Customer. If HiTech Global concludes, after examining and testing returned Product, that it is not covered by the Limited Warranty, HiTech Global will notify Customer and return the Product at Customer's expense. HiTech Global reserves the right to charge a fee for examining and testing Product not covered by the Limited Warranty. This Limited Warranty does not apply if the defect of the Product or Software resulted from improper or inadequate maintenance, installation, repair, or calibration (performed by a party other than HiTech Global); unauthorized modification; improper environment; use of an improper hardware or software key; improper use or operation outside of the specification for the Product or Software; improper voltages; accident, abuse, or neglect; or a hazard such as lightning, flood, or other act of nature. The remedies set forth above are exclusive and the customer's sole remedies, and shall apply even if such remedies fail of their essential purpose.

**9. NO OTHER WARRANTIES.** Except as expressly set forth in this agreement, products and services are provided "as is" without warranty of any kind and HiTech Global disclaims all warranties, expressed or implied, with respect to the products or services including any implied warranties of merchantability, fitness for a particular purpose, title or non infringement, and any warranties that may arise from usage of trade or course of dealing. HiTech Global does not warrant, guarantee, or make any representations regarding the use of or the results of the use of the products or services in terms of correctness, accuracy, reliability, or otherwise. HiTech Global does not warrant that the operation of the products will be uninterrupted or error free.

**10. WARNING AND CUSTOMER INDEMNITY.** Customer understands and acknowledges that products and services are not designed, manufactured, or tested for use in life or safety critical systems, hazardous environments or any other environments requiring fail-safe performance including in the operation of nuclear facilities; aircraft navigation; air traffic control systems;

lifesaving or life sustaining systems or such other medical devices; or any other application in which the failure of the product or service could lead to death, personal injury, severe property damage or environmental harm (collectively, "high-risk uses"). Further, customer must take prudent steps to protect against product and service failures including providing back-up and shut-down mechanisms. HiTech Global expressly disclaims any express or implied warranty of fitness of the products or services for high-risk uses. Customer shall defend, indemnify, and hold HiTech Global harmless from any and all claims, losses, damages, actions including, lawsuits, arbitrations, and/or administrative actions, and expenses (including reasonable attorneys' fees) arising out of customer's use of the products and services for any high-risk uses including claims for product liability, personal injury (including death) or damage to property, regardless of whether such claims are founded in whole or in part upon alleged or actual negligence of HiTech Global.

**11. SYSTEM AND APPLICATION RESPONSIBILITY AND ADDITIONAL INDEMNITY.** Customer acknowledges that it is ultimately responsible for verifying and validating the suitability and reliability of the products or services whenever the products or services are incorporated in its system or application including the appropriate design, process, and safety level of such system or application. further, customer must take prudent steps to protect against product and service failures when products and services are incorporated in a system or application including providing back-up and shut-down mechanisms. customer shall defend, indemnify, and hold HiTech Global harmless from any and all claims, losses, damages, actions including lawsuits, arbitrations, and/or administrative actions, and expenses (including reasonable attorneys' fees) arising out of customer's incorporation of the products or services into its system or application, regardless of whether such claims are founded in whole or in part upon alleged or actual negligence of HiTech Global.

**12. INTELLECTUAL PROPERTY LIABILITY.** HiTech Global agrees to defend any third-party claim that alleges the Products or Services infringe any U.S. patent, copyright, or trademark ("Claim"). Customer shall notify HiTech Global immediately upon learning of any Claim, or any allegation that the grounds for a Claim may exist, shall grant HiTech Global sole control over the defense and settlement of the Claim, and shall cooperate fully with HiTech Global in preparing a defense for any Claim. HiTech Global agrees to pay any final judgment or settlement resulting from any Claim, provided that the settlement is entered into in accordance with this Section. HiTech Global shall not be liable for a settlement made without its prior written consent. Notwithstanding the foregoing, HiTech Global shall have no obligation under this Section for any claim relating to or arising from (a) Customer's modifications of Products or Services; (b) failure to use Products or Services in accordance with the applicable documentation provided by HiTech Global; (c) the combination, operation, or use of Products with any hardware, software or service not provided by HiTech Global; (d) the compliance of HiTech Global with Customer's specifications or directions including the incorporation of any software or other materials provided by or requested by Customer; or (e) Non-HiTech Global Branded Products. The foregoing states the Customer's sole remedy for, and the entire liability and responsibility of HiTech Global for, infringement of any patent, trademark, or copyright or other intellectual property rights. This limited indemnity is in lieu of any other statutory or implied warranty against infringement. In any event, if HiTech Global believes in its reasonable opinion the Products or Services may be alleged to be infringing, for the purposes of mitigating any potential damages, HiTech Global may, at its option, (i) procure for the Customer the right to continue to use the Product, or Services; (ii) replace them with comparable Product or Services that are free of such infringement; or (iii) refund the fees paid by Customer, in which case Customer shall promptly return the Product to HiTech Global.

**13. PROPRIETARY RIGHTS.** HiTech Global reserves all right, title, and interest in any intellectual property rights contained or embodied in Products, or resulting from the Services including any custom developments created or provided by HiTech Global under this Agreement. Nothing in this Agreement will be deemed to grant to Customer any ownership rights in such intellectual property.

**14. LIMITATION OF LIABILITY.** HiTech Global shall not be liable for (i) special, indirect incidental, punitive, exemplary, or consequential damages arising out of or in connection with this agreement or the products or services; or (ii) any damages arising out of or in connection with: (a) products or services not being available for use including any costs of obtaining substitute products or services; (b) loss of, corruption of, or loss of use of any products, hardware, software or data; (c) loss of revenue, profit, or business opportunity; (d) business interruption or downtime; or (e) inability to achieve a particular result, even if it is at suggestion made by HiTech Global. To the extent permitted by applicable law, the total liability of HiTech Global arising out of, or in connection with this agreement or the products or services, shall not exceed the amount of the fees paid by customer for the specific product or service giving rise to such claim. this section: (1) applies to HiTech Global and its licensors, distributors, and suppliers (including its and their directors, officers, employees, and agents), (2) reflects an allocation of risk between HiTech Global and customer in view of the purchase price of the products and services, (3) applies even if HiTech Global has been advised of the possibility of the damages and regardless of whether such claims are founded in whole or in part upon alleged or actual negligence of HiTech Global, and (4) regardless of whether such damages are based in contract, warranty, strict liability, negligence, tort, or otherwise. To the extent the foregoing limitation of liability is unenforceable or fails of its essential purpose, the sole liability of HiTech Global to customer shall be limited to \$5,000 (usd).

**15. FORCE MAJEURE.** HiTech Global shall not be responsible for any delay or failure to perform due to any cause beyond its reasonable control including but not limited to acts of nature or governments; interruptions of telecommunications, power or transportation; failure of contractors or suppliers; or inability to obtain necessary labor or materials ("Force Majeure Event"). In the event of a Force Majeure Event, HiTech Global reserves the right to cancel the applicable order without any liability to Customer.

**16. EXPORT AND SANCTIONS LAWS AND COMPLIANCE.** Products (which, for purposes of this Section, shall include the software and technology incorporated in or supplied with a Product and Service) purchased from HiTech Global are subject to control under the U.S. Export Administration Regulations (15 CFR Part 730 et. seq.) administered by the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") ([www.bis.doc.gov](http://www.bis.doc.gov)) and other applicable U.S. export control laws and sanctions regulations including those administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") ([www.treas.gov/ofac](http://www.treas.gov/ofac)). In addition, Products distributed from HiTech Global's distribution center in Europe are subject to control under the European Union ("EU") Council Regulation No. 428/2009 and their export or intra-EU transfer may also be subject to additional licensing requirements under European Union Council Regulation No. 428/2009 and its implementing regulations. Products may not be exported or re-exported to any country where sanctions are imposed by the U.S. government (which currently includes Cuba, Iran, North Korea, Republic of Sudan and Syria but which may be modified by the U.S. government from time to time). Customer agrees it will comply with the export laws and trade sanctions of all applicable countries and will not export, re-export or transfer Products purchased from HiTech Global without the required license(s) including an export or re-export license issued by the U.S. authorities, or to any prohibited destination or for a prohibited end-use. Products may also require export license(s) issued by the applicable authorities before being returned to HiTech Global. The issuance of a

Quote, a sales order acknowledgment, or an RMA by HiTech Global is not an export license. Customer represents and warrants it is not ineligible or otherwise restricted by U.S. or applicable law to receive Products and it will not export, re-export, or provide Products to any person or entity on OFAC's List of Specially Designated Nationals or on BIS's Denied Persons List, Entity List or Unverified List or any other applicable restricted party list. HiTech Global reserves the right to refuse and/or cancel any order if, at any time, HiTech Global believes that any export controls or trade sanctions laws may be violated. See Export Compliance at [HiTechGlobal.com/legal](http://HiTechGlobal.com/legal) for more information.

**17. GOVERNING LAW.** This Agreement shall be governed by the laws of the State of California, U.S.A., without regard to principles of conflicts of laws. The parties submit to the personal jurisdiction of the state and federal courts in Santa Clara County, California. The parties expressly agree that the provisions of the United Nations Convention on Contracts for the International Sale of Products will not apply to this Agreement.

**18. LIMITATION PERIOD.** HiTech Global shall not be liable for any claim arising under this agreement brought more than two years after the cause of action for such claim first arose.

**19. UPDATES.** HiTech Global reserves the right to update this Agreement at any time, effective upon posting an updated version at [www.HiTechGlobal.com](http://www.HiTechGlobal.com) and [www.HiTechGlobal.us](http://www.HiTechGlobal.us) ; however, the terms and conditions in effect at the time of purchase shall apply to that purchase of Products or Services.

**20. GENERAL TERMS.** This Agreement, and any terms incorporated herein by reference, constitutes the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings or agreements, whether written or oral, with respect to that subject matter. Customer acknowledges reading this Agreement, understands these terms, and agrees to be bound by them. This Agreement may not be altered, supplemented, or amended by the use of any other document unless otherwise agreed in writing by HiTech Global. No delay or failure by HiTech Global to exercise any right it has under this Agreement shall impair or be construed as a waiver of such right. A waiver of any provision of this Agreement must be in writing and shall not be construed as a waiver or modification of any other term hereof, or as a continuing waiver of any provision. The term 'including' as used in the Agreement should be construed as 'including without limitation'. If any part, term, or provision of this Agreement is held illegal, unenforceable, or in conflict with any applicable and enforceable law, the validity of the remaining portions or provisions of this Agreement shall not be affected. The doctrine that any ambiguity contained in a contract shall be construed against the party whose counsel has drafted the contract is expressly waived by each of the parties with respect to this Agreement.