



Standard Terms and Conditions of Sale

These Terms and Conditions, the attendant quotation or acknowledgment and all documents incorporated by specific reference therein, will be the complete and exclusive statement of the terms of the agreement governing the sale of goods ("Goods") by InterMetro Industries Corporation and its divisions ("Seller") to Customer ("Buyer"). Buyer's acceptance of the goods will manifest buyer's assent to these terms and conditions. If these terms and conditions differ in any way from the terms and conditions of buyer's order, or other documentation, this document will be construed as a counteroffer and will not be deemed an acceptance of buyer's terms and conditions which conflict herewith.

1. Prices:

Unless otherwise specified in writing by Seller, Seller's price for the goods shall remain in effect for thirty (30) days after the date of Seller's quotation or acknowledgment of Buyer's order for the Goods, whichever occurs first, provided an unconditional, complete authorization for the immediate shipment of the Goods is received and accepted by Seller within such time period. If such authorization is not received by Seller within such thirty (30) day period, Seller shall have the right to change the price for the Goods to Seller's price for the Goods at the time of shipment.

2. Taxes:

Any tax or governmental charge or increase in same hereafter becoming effective increasing the cost to Seller of producing, selling or delivering the Goods or of procuring material used therein, and any tax now in effect or increase in same payable by the Seller because of the manufacture, sale or delivery of the Goods, may at Seller's option, be added to the price.

3. Terms and Payment:

Subject to the approval of Seller's Credit Department, terms are 1% ten (10) days net thirty (30) days from date of Seller's invoice in U.S. currency. Freight and handling charges are not subject to discount. If any payment owed to Seller is not paid when due, it shall bear interest at a rate to be determined by Seller, which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is paid. Seller shall have the right among other remedies, either to terminate the Agreement or to suspend further performance under this and/or other agreements with Buyer in the event Buyer fails to make any payment when due. Buyer shall be liable for all expenses, including attorneys' fees, relating to the collection of past due amounts.

Minimum Order:

Orders under \$250.00 net, routed prepaid via small package carriers (UPS and FedEx), will be charged \$39.00 freight and handling. Orders under \$250.00 net, routed air freight, LTL, third party, or collect, will be charged a handling fee of \$29.00 plus actual freight costs when applicable. (All amounts in U.S. currency.)

Returns:

Written approval is required from the factory to return merchandise. All merchandise must be returned within 45 days from the invoice date and be returned in original, unopened, and resalable packaging.

1. Minimum return value — \$200.00 net.

2. Restocking charge — 15% (\$50.00 minimum).

3. Exceptions — Special orders of cut posts, made to order dollies, cart covers, Designer Color product, Starsys, and custom are not returnable. (All amounts in U.S. currency.)

4. Shipment and Delivery: Shipments are made FOB Seller's shipping point. We reserve the right to split orders based on the FOB Shipping Point. Order consolidation is available for an additional charge. Contact customer service for more information. Any claims for shortages or damages suffered in transit shall be submitted by the Buyer directly to the carrier. While Seller will use all reasonable commercial efforts to maintain the delivery date acknowledged or quoted by Seller, all shipping dates are approximate. Seller reserves the right to make partial shipments and to segregate "specials" and made-to order Goods from normal stock Goods. Seller shall not be bound to tender delivery of any Goods for which Buyer has not provided shipping instructions.

5. Limited Warranty:

Subject to the limitations of Section 1, Seller warrants that the Goods will be free from defects in material and workmanship under normal use, service and maintenance for a period of one year (unless otherwise specified by Seller in writing) from the date of shipment of the Goods by Seller. THIS IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY SELLER WITH RESPECT TO THE GOODS AND IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHETHER OR NOT THE PURPOSE OR USE HAS BEEN DISCLOSED TO SELLER IN SPECIFICATIONS, DRAWINGS OR OTHERWISE, AND WHETHER OR NOT SELLER'S PRODUCTS ARE SPECIFICALLY DESIGNED AND/OR MANUFACTURED BY SELLER FOR BUYER'S USE OR PURPOSE.

This warranty does not extend to any losses or damages due to misuse, accident, abuse, neglect, normal wear and tear, unauthorized modification or alteration, use beyond rated capacity, or improper installation, maintenance or application. To the extent that Buyer or its agents has supplied specifications, information, representation of operating conditions or other data to Seller in the selection or design of the Goods and the preparation of Seller's quotation, and in the event that actual operating conditions or other conditions differ from those represented by Buyer, any warranties or other provisions contained herein which are affected by such conditions shall be null and void. If within thirty (30) days after Buyer's discovery of any warranty defects within the warranty period, Buyer notifies Seller thereof in writing, Seller shall, at its option, repair or replace F.O.B. point of manufacture, or refund the purchase price for, that portion of the goods found by Seller to be defective. Failure by Buyer to give such written notice within the applicable time period shall be deemed an absolute and unconditional waiver of Buyer's claim for such defects. Goods repaired or replaced during the warranty period shall be covered by the foregoing warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer. Buyer assumes all other responsibility for any loss, damage, or injury to persons or property arising out of, connected with, or resulting from the use of Goods, either alone or in combination with other products/components.

(a) **Notification and Warranty Procedure.** If, in Customer's estimation, the Product is defective, Customer shall promptly notify Seller in writing of the nature of the defect, or shall notify Seller of the nature of the defect through Seller's Customer Service offices via telephone at 800.992.1776 or as specified at www.metro.com. If Seller determines the Product is covered under the warranties provided in this Sections 5 and 6, Seller will promptly provide a return authorization number and communicate shipping instructions to Customer. Products will be returned to Seller at Customer's expense. Collect shipments will not be accepted. Upon receipt, the Product will be examined and repaired without charge, provided such examination discloses, in Seller's reasonable judgment, that it is in fact defective. Should examination reveal that the Product is not defective, Seller will notify Customer and request shipping instructions. In this event, Seller will

be due all shipping expenses it has incurred, as well as a reasonable charge for the examination. In the event that the examination reveals that the Product is defective, but for any reason is not covered under the warranties provided in Sections 5 and 6, Seller will prepare a failure analysis report and a quotation of the cost to repair, and communicate this information to Customer. Customer may then either authorize repair of the Product or direct that the defective Product be returned to Customer. In the latter event, Seller will be due all shipping charges incurred, as well as a reasonable charge for the examination of the Product and the preparation of the failure analysis report. Seller may, at its option, elect to correct any warranty defects by sending its supervisory or technical representatives, at Seller's expense, to Customer's site within the continental United States or Canada to make on-site corrections. The repair of Products damaged in transit to Seller's designated service location will be billed on a T&M basis at Seller's then-current rates. For Product that proves to be defective and covered under the warranties provided in Sections 5 and 6, Seller will repair or replace and ship, via two-day express delivery service. Services provided hereunder on a T&M basis are warranted by Seller under the warranty terms of Sections 5 and 6 for a period of 30 days from the date such Services are provided. For Product that proves to be defective within 30 days from the time of delivery, Seller will ship to Customer at Seller's expense replacement Equipment (Advanced Exchange) upon Customer's request. Seller has the option to repair or replace the defective Equipment with Equipment of equal or similar features and/or functionality. Upon Seller's receipt of the Equipment; the Equipment will be examined and repaired without additional charge. Any Equipment received by Seller from Customer will become the property of Seller and any Equipment shipped to Customer by Seller under this provision shall become the property of Customer. Should Seller's examination of returned Equipment disclose, in Seller's reasonable judgment, that it is in fact defective; no further action under the claim will be required of Seller or Customer. Should Seller's examination reveal, in Seller's reasonable judgment, that the Equipment is not defective, or in the event that the examination reveals that the Equipment is defective, but for any reason is not covered under the warranties provided in Sections 5 and 6, Seller will prepare a failure analysis report and a quotation for the cost to repair, or replacement and communicate this information to Customer.

SECTIONS 5 AND 6 APPLY TO ANY ENTITY OR PERSON WHO MAY BUY, ACQUIRE OR USE SELLER'S GOODS, INCLUDING ANY ENTITY OR PERSON WHO BUYS THE GOODS FROM SELLER'S DISTRIBUTOR AND SUCH ENTITY OR PERSON SHALL BE BOUND BY THE LIMITATIONS THEREIN.

(b) For Product that has been installed by Seller or Seller authorized service providers as part of a system for which Seller has acknowledged interoperability responsibility in writing, Seller will provide telephone technical support services in accordance with Seller's standard procedures for 60 days beginning on the Warranty Start Date for such Products. Products sold as add-on equipment to a system are not covered by this technical support warranty.

(c) **Batteries and Accessories.** All batteries and accessory items, sold by Seller to

Customer hereunder receive the Product warranty under Sections 5 and 6 with a Warranty Period of one year from the Warranty Start Date. Battery adjustments will be prorated over a one year period.

(b) **Software:** Seller has no obligation under the warranties provided in Sections 5 and 6 to correct any Licensed Software programming error(s) that do not significantly adversely affect the use of the Products; however, such programming error corrections shall be made available from time to time to those Customers electing applicable contract maintenance services from the Seller.

6. Limitation of Remedy and Liability:

THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY HEREUNDER (OTHER THAN THE WARRANTY PROVIDED UNDER SECTION 13) SHALL BE LIMITED TO REPAIR, REPLACEMENT OR REFUND OF THE PURCHASE PRICE UNDER SECTION 6. SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE AND IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER AND/ OR ITS CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM

"CONSEQUENTIAL DAMAGES" SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF REVENUE, COST OF CAPITAL AND DAMAGE OR LOSS OF OTHER PROPERTY OR EQUIPMENT.

It is expressly understood that any technical advice furnished by Seller with respect to the use of the Goods is given without charge, and Seller assumes no obligation or liability for the advice given, or resumes obtained, all such advice being given and accepted at Buyer's risk.

7. Excuse of Performance:

Seller shall not be liable for delays in performance or for non-performance due to acts of God, acts of Buyer, war, riot, fire, flood, power surges, other severe weather, sabotage, or epidemics; strikes or labor disturbances; governmental requests, restrictions, laws, regulations, orders or actions; unavailability of or delays in transportation; default of suppliers; or unforeseen circumstances or any events or causes beyond Seller's reasonable control. Deliveries may be suspended for an appropriate period of time as a result of the foregoing. If Seller determines that its ability to supply the total demand for the Goods is hindered, limited or made impracticable due to causes addressed in this Section 7, Seller may allocate its available supply of the Goods or such material (without obligation to acquire other supplies of any such Goods or such materials) among itself and its purchasers on such basis as Seller determines to be equitable without liability for any failure of performance which may result therefrom. Deliveries suspended or not made by reason of this section may be canceled by Seller upon notice to Buyer without liability, but the balance of the agreement shall otherwise remain unaffected.

8. Cancellation:

The Buyer may cancel orders only upon written notice and upon payment to Seller of cancellation or restocking charges which include, among other things, all costs and expenses incurred and commitments made by the Seller and a reasonable profit thereon. Large requirements of build-to order products may require a non-cancelable purchase order.

9. Changes:

Buyer may request changes or additions to the Goods consistent with Seller's specifications and criteria. In the event such changes or additions are accepted by Seller, Seller may revise the price and delivery schedule. Seller reserves the right to change designs and specifications for the Goods without prior notice to Buyer, except with respect to Goods being made-to-order for Buyer.

10. Tooling:

Tool, die, and pattern charges, if any, are in addition to the price of the Goods and are due and payable upon completion of the tooling. All such tools, dies and patterns shall be and remain the property of Seller. Charges for tools, dies, and patterns do not convey to Buyer, title, ownership interests in, or rights to possession or removal, nor prevent their use by Seller for other purchasers, except as otherwise expressly provided by Seller and Buyer in writing with reference to this provision.

11. Assignment:

Buyer shall not assign its rights or delegate its duties hereunder or any interest therein or any rights hereunder without the prior written consent of the Seller, and any such assignment, without such consent, shall be void.

12. Patents and Copyrights:

Subject to Section 7, Seller warrants that the Goods sold, except as are made specifically for Buyer according to Buyer's specifications, do not infringe any valid U.S. patent or copyright in existence as of the date of delivery. This warranty is given upon the condition that Buyer promptly notify Seller of any claim or suit involving Buyer in which such infringement is alleged, and, that Buyer cooperate fully with Seller and permit Seller to control completely the defense or compromise of any such allegation of infringement. Seller's warranty as to use only applies to infringements arising solely out of the inherent operation (1) of such Goods, or (2) of any combination of Goods in a system designed by Seller. In the event such Goods, singularly or in combination, are held to infringe a U.S. patent or copyright in such suit, and the use of such Goods is enjoined, or in the case of a compromise by Seller, Seller shall have the right at its option and expense, to procure for Buyer the right to continue using such Goods, or replace them with non-infringing Goods; or modify same to become non-infringing; or grant Buyer a credit for the depreciated value of such Goods and accept return of them.

13. General Provisions:

These terms and conditions supersede all other communications, negotiations and prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, rescission, discharge, abandonment or waiver of these terms and conditions shall be binding upon the Seller unless made in writing and signed on its behalf by a duly authorized representative of Seller. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless hereafter made in writing and signed by the party to be bound, and no modification or additional terms shall be applicable to this agreement by Seller's receipt, acknowledgment, or acceptance of purchase orders, shipping instruction forms, or other documentation containing terms at variance with or in addition to those set forth herein. Any such modifications or additional terms are specifically rejected by Seller. No waiver by either party with respect to any breach or default or of any right or remedy, and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver be expressed in writing and signed by the party to be bound. All typographical or clerical errors made by Seller in any quotation, acknowledgment or publication are subject to correction.

The validity, performance, and all other matters relating to the interpretation and effect of this agreement shall be governed by the law of the state of Pennsylvania. Buyer and Seller agree that the proper venue for all actions arising in connection herewith shall be only in Pennsylvania and the parties agree to submit to such jurisdiction. No action, regardless of form, arising out of transactions relating to this contract, may be brought by either party more than two (2) years after the cause of action has accrued. [The Convention for the International Sales of Goods shall not apply to this agreement.]

Buyer agrees that all applicable import, export control and sanctions laws, regulations, orders and requirements, as they may be amended from time to time, including without limitation those of the United States, the European Union and the jurisdictions in which Seller and Buyer are established or from which items may be supplied, and the requirements of any licenses, authorizations, general licenses or license exceptions relating thereto will apply to its receipt and use of hardware, software, services and technology. Buyer agrees furthermore that it shall not engage in any activity that would expose Seller or any of its affiliates to a risk of penalties under laws and regulations of any relevant jurisdiction prohibiting improper

payments, including but not limited to bribes, to officials of any government or of any agency, instrumentality or political subdivision thereof, to political parties or political party officials or candidates for public office, or to any employee of any customer or supplier. Buyer agrees to comply with all appropriate legal, ethical and compliance requirements.

Configured Products* Terms & Conditions and Order Change/Cancellation Policy

Purchase orders for configured Starsys products must be submitted with Customer Signed Configuration — InterMetro Industries utilizes air-ride carriers exclusively when shipping the Starsys product system domestically. In the case of customer arranged freight, the use of air-ride carriers is strongly recommended. InterMetro Industries is not responsible for freight damage incurred on customer arranged transportation.

All order change requests must be requested through customer service. Changes/cancellations requested within 7 workdays of the scheduled ship date that will impact order production, will incur, at minimum, a 20% Change/Cancellation Fee, up to the full order value, depending on the percentage of the order completed. Customer service will relay percentage of order completed along with the Change/ Cancellation Fee amount. Prior to Metro accepting the change, a revised purchase order (including associated Fee) is required. Orders for C5 cabinets with an "A" suffix are non-cancellable.

Configured Products* Return Policy

- Configured Product units, components, countertops, and custom items are nonreturnable.
- Configured Product accessories are returnable at the discretion of Metro.
- A Return Merchandise Authorization (RMA) must be obtained through InterMetro's customer service department prior to returning the product.
- All returns will be coordinated by InterMetro and return freight costs will be charged back.
- All returns must be in original packaging, unused and in saleable condition.
- All returns must be made within 45 days of invoice date.
- Minimum return value is \$100.00 net.
- There will be a 20% Restocking Fee (\$25.00 minimum) based on items credited after an inspection is performed on the product at the Wilkes-Barre, PA distribution facility.

**Configured Products apply to C5 Heated Cabinets, Flo Series Point of Care Carts, Basix Carts, Flexline Carts, Lifeline Carts, Starsys Carts and Cabinets and WorkCenters, Lionville Series Fixtures and Carts, and MedDispense Series of Dispensing Cabinets.*

***Those Terms and Conditions provided expressly for Configured Products supersede Metro's Standard Terms and Conditions. Those situations not specifically addressed by Configured Products Terms and Conditions are covered by Metro's standard Terms and Conditions of Sale as provided.*

****Most Metro Foodservice Products are listed by National Sanitation Foundation. For specific items, please check the latest NSF foodservice listing.*

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