

## **FREEDOM COMMUNICATION TECHNOLOGIES, INC. ("FCT") Terms and Conditions**

### **1. SCOPE**

- A. Unless otherwise provided, sales are made on the terms and conditions contained herein and, to the extent of any conflict, these terms and conditions take precedence over any terms and conditions which may appear on the Buyer's order form. Freedom Communication Technologies, Inc., (herein, "FCT"), shall not be bound by Buyer's terms and conditions unless expressly agreed to in writing.
- B. All verbal orders and change orders must be confirmed in writing by the Buyer.
- C. No order shall be binding until it is accepted in writing by FCT.

### **2. PRICES**

- A. FCT prices do not include any duties, customs charges, federal, state or local sales, excise or use taxes. Any applicable taxes/charges will be billed by FCT as a separate item on the invoice unless Buyer provides a properly executed exemption certificate or other documentation prior to shipment.
- B. FCT prices do not include on-site installation assistance. Any required certification and/or inspection specifications, which are over and above FCT's usual quality control practices, are subject to negotiation prior to compliance.

### **3. DELIVERY**

- A. Unless otherwise specifically provided: (1) delivery shall be made Ex-Works Kilgore, Texas; (2) title and risk of loss shall pass to Buyer upon delivery to freight carrier; (3) Buyer shall be responsible for all transportation and insurance charges. (4) Insurance charges will be added to the invoice unless specifically excluded by Buyer in writing.
- B. If the Buyer does not specify routing instructions, the selection of shipping method and routing shall be at FCT's discretion.
- C. FCT will make every reasonable effort to meet delivery schedules but assumes no liability for damages of any kind for delays in delivery. Delays in delivery shall not relieve the Buyer from his obligation of performance.

### **4. WARRANTY STATEMENT**

FCT Test Equipment Products (herein, the "product") that are manufactured by FCT are warranted by FCT for a period of two (2) years from the date of shipment against defects in material and workmanship. This express limited warranty is valid only for the original purchaser (herein, the "buyer"), and applies only to such defects that: (1) produce repeatable failures resulting in product lock - ups or power downs rendering the product inoperable, or (2) cause the product to perform outside of FCT's published specifications.

In the event of such a defect during the period of warranty, the buyer may return the product, transportation prepaid to, Freedom Communication Technologies, Inc., 2002 Synergy Boulevard, Suite 200, Kilgore, Texas 75662. The buyer must include written notice specifying the nature of the defect and proof of purchase and evidence of the date of shipment. FCT, at its option, will either repair or replace the product. If FCT elects to repair a defective product by replacing a module or subassembly, FCT, at its option, may replace such defective module or subassembly with a new or reconditioned replacement. This Limited Warranty is not extended beyond two years from original date of shipment if FCT repairs a product. Transportation charges for return of the product will be paid by FCT.

This Limited Warranty is void if FCT determines:

- 1. The product has not been operated in accordance with the procedures in the operating instructions; or
- 2. The seals on non-user serviceable components or modules are broken; or
- 3. The product has been subject to misuse, abuse, damage, accident, negligence, attempted repair, or alteration.

FCT does not warrant that the product will meet the buyer's requirements or that the operation of the product will be uninterrupted or error free. No other warranties, whether express, implied, or statutory, including implied, warranties or merchantability or

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fitness for particular purpose, are granted to buyer, or to buyer's transferees, customers, or users of the product. In no event shall FCT be liable for any special, incidental or consequential damages arising from this agreement or use of the product.

**5. SOFTWARE / FIRMWARE LICENSE**

- A. For the purpose of these terms and conditions, the following definitions apply: "Software" means one or more programs supplied specifically for use with the FCT Product.
- B. "Firmware" means one or more programs incorporated into a FCT Product and fixed in hardware or other non-volatile memory.
- C. FCT grants to its Buyers a non-exclusive, royalty-free license to use software and firmware with the related FCT Products in the configuration in which that Product was sold by FCT or subsequently upgraded by FCT.
- D. This license is subject to the following restrictions: (1) Buyer may not disassemble or decompile any part of the software or firmware; (2) Buyer may not modify or copy the software or firmware except as needed to operate the Product; (3) Buyer may transfer the software or firmware only upon the transfer of the interest in the Product; (4) This license confers no title, ownership or rights in any associated source code.

**6. EQUIPMENT RETURNS**

- A. Before equipment is returned to FCT for repair or any other reason, a RMA number must be obtained from the FCT facility. FCT assumes no responsibility for unauthorized returns.
- B. During the limited warranty period, freight charges for the return of equipment for repair under the warranty shall be the responsibility of the Buyer. Return freight charges from FCT's facility shall be paid by FCT.
- C. Freight charges, both to and from Kilgore, Texas, for equipment to be repaired outside the limited warranty period, shall be paid by the Buyer.

**7. GENERAL**

- A. Buyer is solely responsible for obtaining any required authorization from the Federal Communications Commission and for compliance with its regulations, and for obtaining all necessary federal, state and local permits.
- B. Publicity. The parties shall consult with each other before issuing any press release or otherwise making any public statement with respect to any products or services supplied by FCT to Buyer.
- C. The Buyer shall not assign his order or any interest therein without the consent of FCT.
- D. Interest and finance charges on any unpaid receivables beyond terms as specified in FCT's written acknowledgment shall be charged at the rate of one and one-half percent per month, or the maximum rate allowable, whichever is lesser. Unless separately specified and accepted in writing, terms are Net 30 Days from shipment for credit customers.
- E. All transactions shall be governed by the laws of the State of Texas.

**8. PAYMENT**

- A. Unless otherwise agreed to by Seller, Buyer shall pay for all articles prior to shipment of product. Payment will be deemed to have been made when received by Seller.
- B. All transactions shall be governed by the laws of the State of Texas.