

## XiTRON Technologies, Inc. U.S. Terms and Conditions of Sale Test and Measurement Products

**PLEASE READ THIS DOCUMENT CAREFULLY! IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. THIS DOCUMENT CONTAINS A DISPUTE RESOLUTION CLAUSE.**

These terms and conditions ("Agreement") apply to your purchase of test and measurement systems and/or related products and/or services and support sold in the United States ("Product") by the XiTRON Technologies, Inc. entity named on the invoice or acknowledgement ("XiTRON") provided to you. By accepting delivery of the Product, you accept and are bound to the terms and conditions of this Agreement. **THIS AGREEMENT SHALL APPLY UNLESS (I) YOU HAVE A SEPARATE PURCHASE AGREEMENT WITH XiTRON, IN WHICH CASE THE SEPARATE AGREEMENT SHALL GOVERN; OR (II) OTHER XiTRON TERMS AND CONDITIONS APPLY TO THE TRANSACTION.**

1. **Other Documents.** This Agreement may NOT be altered, supplemented, or amended by the use of any other document(s) unless otherwise agreed to in a written agreement signed by both you and XiTRON.
2. **Payment Terms; Orders; Quotes; Interest.** Payment terms are within XiTRON's sole discretion, and, unless otherwise agreed to by XiTRON, payment must be made at the time of purchase. Payment for Product may be made by credit card, wire transfer, or other prearranged payment method. XiTRON may invoice parts of an order separately. Your order is subject to cancellation by XiTRON, at XiTRON's sole discretion. Unless you and XiTRON have agreed to a different discount, XiTRON's standard pricing policy for XiTRON-branded systems, which include both hardware and services in one discounted price, allocates the discount off list price applicable to the service portion of the system to be equal to the overall calculated percentage discount off list price on the entire system. XiTRON is not responsible for pricing, typographical, or other errors, in any offer by XiTRON and reserves the right to cancel any orders resulting from such errors.
3. **Purchase Order Rescheduling and Freight-Forward Delays.** XiTRON Technologies reserves the right to grant or disallow requests for rescheduling shipments on purchase orders. If the reschedule involves additional costs for handling, storage, etc., the customer agrees to pay fair cost for such service. If the customer fails to provide necessary information and scheduling for products to be freight-forwarded, the customer hereby agrees to compensate XiTRON for all costs related to the delay, to include, but not limited to; storage and handling.
4. **Shipping Charges; Taxes; Title; Risk of Loss.** Shipping and handling are additional unless otherwise expressly indicated at the time of sale. Resolution of loss or damage that occurs during shipping by a carrier selected by XiTRON is XiTRON's responsibility. Resolution of loss or damage that occurs during shipping by a carrier selected by you is your responsibility. You must notify XiTRON within 21 days of the date of your invoice or acknowledgement if you believe any part of your purchase is missing, wrong or damaged. Unless you provide XiTRON with a valid and correct tax exemption certificate applicable to your purchase of Product and the Product ship-to location, you are responsible for sales and other taxes associated with the order. Shipping dates are estimates only. Title to software will remain with the applicable licensor(s).
5. **Delivery.** XiTRON will make every reasonable attempt to ship within the lead-time specified at the time of purchase. The purchaser understands that lead-times are estimates only and non-binding.
6. **Warranties.** **THE LIMITED WARRANTIES APPLICABLE TO XiTRON-BRANDED HARDWARE PRODUCT CAN BE FOUND AT <http://www.xitrontech.com> OR IN THE DOCUMENTATION XiTRON PROVIDES WITH THE PRODUCT. XiTRON MAKES NO WARRANTIES FOR SERVICE, SOFTWARE, OR NON-XiTRON BRANDED PRODUCT. SUCH PRODUCT IS PROVIDED BY XiTRON "AS IS". WARRANTY AND SERVICE FOR NON-XiTRON BRANDED PRODUCT, IF ANY, IS PROVIDED BY THE ORIGINAL MANUFACTURER, NOT BY XiTRON. XiTRON MAKES NO EXPRESS WARRANTIES EXCEPT THOSE STATED IN XiTRON'S APPLICABLE WARRANTY STATEMENT IN EFFECT ON THE DATE OF THE INVOICE, PACKING SLIP OR ACKNOWLEDGEMENT. WARRANTIES AND SERVICE WILL BE EFFECTIVE, AND XiTRON WILL BE OBLIGATED TO HONOR ANY SUCH WARRANTIES AND SERVICES, ONLY UPON XiTRON'S RECEIPT OF PAYMENT IN FULL FOR THE ITEM TO BE WARRANTED OR SERVICED.**

7. **Software.** All software is provided subject to the license agreement that is part of the software package and you agree that you will be bound by such license agreement.
8. **Custom Modifications.** The performance of all custom modifications are tested at 25°C (±3°) unless otherwise noted. Performance specifications meet customer requirements under typical operating conditions. Custom modifications may affect standard performance or ratings. Contact XiTRON for additional information.
9. **Return Policies; Exchanges** XiTRON's return policy can be found at <http://www.xitrontech.com> . You must contact us directly before you attempt to return Product to obtain a Return Material Authorization Number for you to include with your return. You must return Product to XiTRON in its original or equivalent packaging. You are responsible for risk of loss, shipping and handling fees for returning or exchanging Product. Additional fees may apply. If you fail to follow the return or exchange instructions and policies provided by XiTRON, XiTRON is not responsible whatsoever for Product that is lost, damaged, modified or otherwise processed for disposal or resale. At XiTRON's discretion, credit for partial returns may be less than invoice or individual component prices due to bundled or promotional pricing. Returns of new equipment may result in a restocking fee of 25%.
10. **Changed or Discontinued Product.** XiTRON's policy is one of ongoing update and revision. XiTRON may revise and discontinue Product at any time without notice. XiTRON will ship Product that have the functionality and performance of the Product ordered, but changes between what is shipped and what is described in a specification sheet or catalog are possible. Parts used in repairing or servicing Product will be new. In the event that certain components have been obsoleted, discontinued or economically not feasible to purchase, XiTRON reserves the right to procure equivalent-to-new, or reconditioned components. XiTRON Technologies will notify the buyer in such an instance.
11. **Service and Support.** Service offerings may vary from Product to Product. If you purchase optional services and support from XiTRON, XiTRON and/or your third-party service provider will provide such service and support to you in accordance with the terms and conditions located at <http://www.xitrontech.com> or as mailed to you. You may contact XiTRON for more information, see <http://www.xitrontech.com> for contact information. XiTRON and/or the third-party manufacturer's representative, distributor, or value-added reseller, may at their discretion, revise their general and optional service and support programs and the terms and conditions that govern them without prior notice to you. XiTRON has no obligation to provide service or support until XiTRON has received full payment for the Product or service/support contract you purchased. XiTRON is not obligated to provide service or support you purchase through a third party and not XiTRON Technologies.
12. **Limitation of Liability.** XITRON DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH HEREIN, INCLUDING BUT NOT LIMITED TO ANY LIABILITY FOR PRODUCT NOT BEING AVAILABLE FOR USE, LOST PROFITS, LOSS OF BUSINESS OR FOR LOST OR CORRUPTED DATA OR SOFTWARE, OR THE PROVISION OF SERVICES AND SUPPORT. EXCEPT AS EXPRESSLY PROVIDED HEREIN, XITRON WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. YOU AGREE THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCT, XITRON IS NOT LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE AMOUNT INVOICED FOR THE APPLICABLE PRODUCT. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL APPLY EVEN IF SUCH REMEDIES FAIL THEIR ESSENTIAL PURPOSE.
13. **Applicable Law; Not For Resale or Export.** You agree to comply with all applicable laws and regulations of the various states and of the United States. You agree and represent that you are buying only for your own internal use only, and not for resale or export. XiTRON has separate terms and conditions governing resale of Product by third parties and transactions outside the United States. Terms and conditions for resale are located by request: [www.xitrontech.com](http://www.xitrontech.com).
14. **Governing Law.** THE PARTIES AGREE THAT THIS AGREEMENT, ANY SALES THERE UNDER, OR ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, AND EQUITABLE CLAIMS) BETWEEN CUSTOMER AND XITRON ARISING FROM OR RELATING TO THIS AGREEMENT, ITS INTERPRETATION, OR THE BREACH, TERMINATION OR VALIDITY THEREOF, THE RELATIONSHIPS WHICH RESULT FROM THIS AGREEMENT, XITRON'S ADVERTISING, OR ANY RELATED PURCHASE SHALL, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAWS RULES.

15. **Headings.** The section headings used herein are for convenience of reference only and do not form a part of these terms and conditions, and no construction or inference shall be derived there from.
16. **Binding Arbitration. ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS) BETWEEN CUSTOMER AND XITRON,** its agents, employees, principals, successors, assigns, affiliates (collectively for purposes of this paragraph, "XiTRON") arising from or relating to this Agreement, its interpretation, or the breach, termination or validity thereof, the relationships which result from this Agreement (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement), XiTRON's advertising, or any related purchase **SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE NATIONAL ARBITRATION FORUM (NAF)** under its Code of Procedure then in effect (available via the Internet at <http://www.arb-forum.com>, or via telephone at 1-800-474-2371). The arbitration will be limited solely to the dispute or controversy between customer and XiTRON Technologies. **NEITHER CUSTOMER NOR XITRON SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS, OR ARBITRATE ANY CLAIM AS A REPRESENTATIVE OR CLASS ACTION OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.** This transaction involves interstate commerce, and this provision shall be governed by the Federal Arbitration Act 9 U.S.C. sec. 1-16 (FAA). Any award of the arbitrator(s) shall be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction. XiTRON will be responsible for paying any arbitration filing fees and fees required to obtain a hearing to the extent such fees exceed the amount of the filing fee for initiating a claim in the court of general jurisdiction in the state in which you reside. Each party shall pay for its own costs and attorneys' fees, if any. However, if any party prevails on a statutory claim that affords the prevailing party attorneys' fees, or if there is a written agreement providing for fees, the Arbitrator may award reasonable fees to the prevailing party, under the standards for fee shifting provided by law. Information may be obtained and claims may be filed with the NAF at P.O. Box 50191, Minneapolis, MN 55405.

(REV 01/23/06)