

## CompassTools Terms and Conditions of Sale

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1. **SCOPE.** All products are offered for sale and sold by CompassTools, Inc. ("CompassTools") subject to the terms stated herein. This offer expressly limits acceptance to these terms and any additional, different or inconsistent terms proposed by Customer, whether in writing or otherwise, are hereby rejected. CompassTools shall not be bound by any other terms unless expressly agreed in a writing signed by CompassTools stating that such terms shall supersede those stated herein. Acceptance by Customer of these terms may be made either by written acceptance or by receipt by Customer of delivery of product or service from CompassTools. If there is a separate formal written agreement executed by the parties, these terms shall supplement and bind the parties where not in conflict with that written agreement. In the event of any conflict, that separate written agreement controls.
2. **PRICES.** All prices are subject to adjustment by CompassTools on account of specifications, quantities, shipment arrangements or other conditions, which are not part of the original price quotation. Customer acknowledges pricing is likely to increase from time to time.
3. **PAYMENT.** All payments must be in U.S. funds. Unless otherwise stated in the order acknowledgement, terms are cash on delivery. If satisfactory open account credit is established, then until withdrawn: (a) terms of sale for a delivery in the United States are net thirty (30) days from invoice date up to available credit limit; and (b) payment for a delivery outside the United States shall be by payment in advance and/or by irrevocable letter of credit issued by a bank satisfactory to CompassTools, advised/confirmed by a U.S. bank, payable to CompassTools in U.S. funds, payable at sight. CompassTools may elect to separately invoice any partial delivery. Customer shall pay each invoice without regard to other deliveries. Customer shall pay all amounts indicated on each invoice without setoff for any amount Customer may claim due from CompassTools and regardless of any controversy that may exist. Customer acknowledges that time is of the essence. CompassTools may at any time limit or cancel credit and demand cash on delivery or payment in advance
4. **PAST DUE.** Past due balances are subject to a monthly interest charge computed at a periodic rate of one-and-one-half percent (1.5%) per month, but not to exceed the highest rate allowed by law. Customer acknowledges that the late payment of any invoice will cause CompassTools to lose the use of that money and incur administrative costs and processing and accounting expenses, the exact amount of which is extremely difficult to ascertain. Therefore, CompassTools may impose a late charge equal to six percent (6%) of such past due balance. Customer and CompassTools agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to CompassTools for the loss suffered from such non-payment by Customer. In addition, Customer is liable for all reasonable fees associated with the collection of Customer's delinquent account including, without limitation, reasonable legal and court fees, to the extent not prohibited by applicable law.
5. **TAXES.** Prices quoted or accepted are exclusive of federal, state, municipal or other government sales, excise, use, occupational or like taxes, tariffs, customs, and all export duties and other fees and export costs. These taxes, fees and charges are Customer's sole responsibility. Prices are subject to increase by the amount of any of these taxes, fees or charges which CompassTools pays or is required to pay or collect on sale or delivery of a product. Any tax exemption certificate or similar document or proceeding required to exempt the sale of products from any tax, tariff, duty, fee or the like, shall be obtained by Customer and provided to CompassTools before delivery, all at Customer's expense.
6. **CANCELLATION.** Customer may not cancel, reschedule or modify an order unless Customer makes a request in writing and such request is approved in writing by an authorized CompassTools

representative. CompassTools has sole discretion to accept or decline such a request. CompassTools shall reject any request to cancel, reschedule or modify any order concerning a firm order, non-standard product, product made to Customer specifications made within thirty (30) days of scheduled shipment. CompassTools acceptance of a Customer request made pursuant to this paragraph may be subject to reasonable conditions, including, without limitation, Customer paying: (a) for the goods; (b) cancellation, rescheduling or modification charges; (c) CompassTools overhead; (d) unearned discounts (billback); (e) reasonable profit; and (f) other amounts CompassTools requires. For any order that is cancelled or modified, Customer shall have no rights in or to partially completed products.

7. RETURN. Customer has no right to return a product except as expressly set forth in the limited warranty provided herein. CompassTools is not required to accept any return unless Customer requests in writing and CompassTools consents in writing to the return and provides a Return Material Authorization (RMA) number.

8. BILLBACK. If Customer receives a lower price on a product through quantity ordering but fails during the scheduled delivery period to purchase the total quantity ordered/required for the lower price, then in addition to CompassTools right to enforce the purchase agreement and any other rights, Customer shall pay CompassTools an amount equal to the difference between the higher unit price for the quantity actually purchased (at the higher of the price in effect at time order was accepted or the price in effect at time of determination of additional amount to be paid) and the lower unit price quoted for the quantity ordered.

9. SHIPMENT. Shipment to a continental U.S. destination will be FOB CompassTools facility. Shipment to a destination outside continental U.S. will be per Incoterms 2000 EXW CompassTools facility. In the event customer has not provided shipping accounts, CompassTools may elect to ship by any method CompassTools deems most economical or convenient.

10. RISK OF LOSS. Title to product and risk of loss or damage in transit or after passes to Customer on CompassTools delivery of product to a common carrier for shipment Accordingly, Customer must obtain insurance against damage in shipment or after. Product held or stored by CompassTools for Customer shall be at the sole risk of Customer. Customer shall pay all expenses CompassTools incurs to hold or store product at Customer's request

11. DATES. Shipping dates are approximate. CompassTools is not obligated to ship or deliver by a particular date. CompassTools will schedule products for shipment according to CompassTools applicable shipment sequence. CompassTools reserves the right to make partial deliveries, deliver in installments, delay or allocate deliveries. Any applicable purchase contract shall be severable as to each delivery. CompassTools is not liable for delay, from whatever cause, in shipment or delivery.

12. LIMITED WARRANTY. Unless a shorter period is specified in an applicable order acknowledgment or contract; and subject to the procedures specified in Section 14, for a period of one year following the date of shipment of product, CompassTools warrants that product, when delivered: (a) conforms to CompassTools' material written Specifications (as defined below) for the product; and (b) is free from material defects in material and workmanship. Incorrect: (i) storage; (ii) installation; (iii) use; (iv) maintenance; (v) service; or (vi) repair by Customer, or any form of alteration, misuse, neglect, abuse or accident affecting the product voids the foregoing limited warranty. CompassTools shall not be liable under this warranty if Customer knew of any failure of a product to conform to specifications prior to purchase. CompassTools makes no representations or warranties concerning coverage or the distance at which usable radio signals will be transmitted and received by the products supplied hereunder, or that services will be uninterrupted or error free. CompassTools does not warrant that the functions contained in the

products will meet Customer's specific requirements.

13. MEANING OF SPECIFICATIONS. "Specifications" in Section 12 means: (a) CompassTools product specifications identified on the face of CompassTools order acknowledgement, subject to applicable parameters and testing conditions; or (b) if no specifications or only partial specifications are identified, then CompassTools published product specifications stated in a data sheet or other similar document in effect at CompassTools choice of (i) time of CompassTools order acknowledgement; (ii) time of product manufacture; or (iii) time of product delivery, in any such case, whether or not provided to or known to Customer. Customer acknowledges that CompassTools product specifications may change without notice. No modification to any specification made before or after a warranty period shall have the effect of extending the warranty period regardless of whether CompassTools notified Customer of the modification. Customer assumes all risk for operation of product outside the parameters and testing conditions described in the applicable product specifications. CompassTools reserves the right at any time to discontinue any model in its product line and to make changes in specifications or design in products.

14. WARRANTY CLAIM. Any claim made under the limited warranty described in Section 12 shall be made within the shorter of: (a) actual inspection of product following delivery; (b) a reasonable time to complete inspection of product following delivery; or (c) one year from shipment date. To make a claim Customer must: (a) notify CompassTools in writing within the shorter of the times stated in the preceding sentence, specifying in detail the nature of the warranty claim; and (b) permit CompassTools to inspect and test the product claimed to be defective. Customer shall be responsible for the costs of shipping the allegedly defective product to CompassTools facility, subject to potential reimbursement for such costs pursuant to Section 15. A CLAIM MADE AFTER THE WARRANTY PERIOD IS NOT COVERED BY ANY WARRANTY.

15. REMEDY. CompassTools liability under the warranty is limited to CompassTools choice of replacing, repairing, or issuing credit for product that was the subject of a timely and proper warranty claim and which CompassTools determines is covered by the warranty. CompassTools (a) will credit Customer for reasonable shipping expense for product returned to CompassTools for warranty service in compliance with these terms; but (b) will not bear shipping expense and will return to sender any product returned without obtaining prior authorization and RMA number or otherwise not covered by the warranty.

16. DISCLAIMER. THE WARRANTY DESCRIBED IN SECTION 12 CONSTITUTES COMPASSTOOLS SOLE LIABILITY AND CUSTOMER'S SOLE REMEDY REGARDING ANY CLAIMED NONCONFORMANCE OF OR DEFECT IN PRODUCT AND IS IN LIEU OF ANY OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR OTHER WARRANTY OF QUALITY, FUNCTION, OR PERFORMANCE. COMPASSTOOLS DISCLAIMS ANY AND ALL OTHER SUCH WARRANTIES, EXPRESS, IMPLIED AND STATUTORY. THERE IS NO WARRANTY THAT EXTENDS BEYOND THE DESCRIPTION OF THE FACE HEREOF. No personnel or representative of CompassTools is authorized to make any warranty about a product. Oral or written statements by any CompassTools personnel or representative, including via email, do not constitute a warranty, do not bind or obligate CompassTools, shall not be relied on by Customer, and are not part of these terms. Customer acknowledges it has not relied on any warranty or representation by any person or entity except for the warranties or representations specifically stated herein. Some jurisdictions do not allow the limitation or exclusion of implied warranties or how long an implied warranty may last, so the above limitations may not apply to Customer. This warranty gives Customer specific legal rights and Customer may have other rights that vary from jurisdiction to jurisdiction.

17. LIMITATION ON LIABILITY. COMPASSTOOLS LIABILITY UNDER, FOR BREACH OF, OR

ARISING OUT OF THIS AND ANY OTHER AGREEMENT BETWEEN COMPASSTOOLS AND CUSTOMER, ON A CUMULATIVE AGGREGATE BASIS, SHALL BE LIMITED IN AMOUNT TO THE NET PURCHASE PRICE OF THE PRODUCT SOLD TO CUSTOMER BY COMPASSTOOLS. COMPASSTOOLS SHALL NOT BE LIABLE FOR COSTS TO COVER OR OBTAIN SUBSTITUTE GOODS. COMPASSTOOLS SHALL NOT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL INCIDENTAL, ECONOMIC, DIRECT, INDIRECT OR OTHER DAMAGE (INCLUDING WITHOUT LIMITATION LOST PROFIT) WHETHER OR NOT COMPASSTOOLS HAS BEEN ADVISED OF THE POSSIBILITY OF THAT DAMAGE OR LOSS, HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR OTHERWISE. THIS EXCLUSION ALSO INCLUDES ANY LIABILITY WHICH MAY ARISE OUT OF A THIRD PARTY CLAIM AGAINST CUSTOMER. THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT COMPASSTOOLS POTENTIAL LIABILITY. THE LIMITED WARRANTY, LIMITED REMEDIES, WARRANTY DISCLAIMER AND LIMITED LIABILITY ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN COMPASSTOOLS AND CUSTOMER, CUSTOMER ACKNOWLEDGES CUSTOMER HAS RECEIVED VALUABLE CONSIDERATION FOR THIS LIMITATION ON LIABILITY IN THE FORM OF ABILITY OF COMPASSTOOLS TO OPERATE AT LOWER COST, GENERATING PRODUCT INNOVATION, PRODUCT AVAILABILITY, LOWER PRODUCT PRICING, WILLINGNESS TO CONTRACT OR A COMBINATION OF THESE, WHETHER GENERALLY OR SPECIFICALLY.

18. INTELLECTUAL PROPERTY. No representation is made that a product or its manufacture, distribution, sale or use is free from infringement or misappropriation of any patent, trademark, trade name, copyright, trade secret or other claimed rights of any person or entity. Customer releases CompassTools from and in respect of any and all claims by, against or through Customer, for any such alleged or actual infringement or misappropriation. Unless CompassTools has agreed otherwise in writing, Customer has no right to use any of CompassTools trade names, trademarks, service marks, logos, domain names, and other distinctive brand features. Customer agrees that Customer shall not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be contained within the products.

19. SALE CONVEYS NO LICENSE. A product sale does not purport to convey any license concerning any intellectual property rights of CompassTools regarding any invention of CompassTools or others. CompassTools reserves all rights to all intellectual property used or embodied in a product. No manufacture to Customer's specifications entails ownership by or conveyance to Customer of any property right in any invention or product. CompassTools is deemed to own all tools, dies and other equipment whether provided by Customer or made by CompassTools for the purpose of manufacturing any product for the benefit of Customer.

20. CONFIDENTIAL INFORMATION. Information provided by Customer to CompassTools is deemed to be non-confidential, and CompassTools is not obligated to treat as confidential any information that Customer provides to CompassTools, unless there is a separate, express agreement providing for confidentiality.

21. SECURITY INTEREST; COMPASSTOOLS REMEDIES. CompassTools reserves a purchase money security interest and lien in product sold to Customer and Customer's proceeds there from, in the amount of the purchase price of such products. In a default by Customer of any obligation to CompassTools, CompassTools shall have the right; in addition to all other rights and remedies, to repossess products sold to Customer physically, or, if the functionality exists, to remotely disable or deactivate products sold to Customer for which payment is not timely received. Customer agrees to make the product available to CompassTools for repossession. In addition, upon default by Customer, CompassTools has the right to withhold no-charge support services from Customer, including, without limitation, access to engineering support. The security interest will be satisfied by payment in full. A copy of the invoice and/or these terms

may be filed with appropriate authorities at any time as a financing statement; to further perfect CompassTools security interest. On CompassTools request Customer will execute financing statements and other instruments and take other steps CompassTools requests to perfect and/or provide notice of the security interest.

22. DELAY IN DELIVERY AND FORCE MAJEURE. CompassTools shall not be liable to Customer for any delay in shipment; failure to meet quoted delivery date(s) or delay in performance. CompassTools shall have the right to indefinitely postpone delivery due to unforeseen circumstances or a cause beyond CompassTools control. Examples include act of God, terror, war, riot, embargo, act of civil or military authority, fire; flood, hurricane, accident, strike, transportation delay, shortage or disruption in material or supply, excessive demand for product over available supply, interruption for any reason in manufacture of product by CompassTools supplier, or other cause not within CompassTools control, whether of the class described above or not.

23. NO WAIVER. Failure by CompassTools to enforce at any time any provision of these terms, or to exercise any election or option, shall not be a waiver and shall not be construed as a waiver of the provision or option, nor be construed to affect validity of these terms or any part, or CompassTools right to enforce each and every such provision.

24. ATTORNEYS' FEES. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in litigation involving breach, compliance, enforcement or interpretation of these terms.

25. GOVERNING LAW. The parties acknowledge and agree that any offer and acceptance by the parties shall be a contract made in the County of Arapahoe State of Colorado. All questions pertaining to validity, construction, execution and performance of these terms shall be interpreted, construed and governed in English according to the internal laws of Colorado, without giving effect to principles of (a) comity of nations or (b) conflicts of law. The parties agree the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded in its entirety from these terms.

26. JURISDICTION AND VENUE. Subject to paragraph 27, the parties acknowledge their mutual intent that disputes shall be resolved in Courts applying common law and conducting proceedings in English. Accordingly, Customer agrees the Colorado state courts located in Arapahoe County, Colorado U.S.A and United States District Court for the Central District of Colorado shall have exclusive jurisdiction and venue over any dispute arising out of these terms. Any action shall be commenced only in such courts and, to the extent not otherwise subject to jurisdiction of such courts, Customer agrees to the jurisdiction of those courts and waives and agrees to reconfirm waiver of any objection to jurisdiction and to subject itself to the jurisdiction of those courts.

27. ARBITRATION. Either Customer or CompassTools may require any claim to be arbitrated, except neither party is obligated to arbitrate a claim that is brought and maintained as an individual (as opposed to a class) claim and that involves an amount in dispute or claim for damages of less than \$25,000. Arbitration notice may be given before or after a lawsuit has been started over the claim or with respect to other claims brought later in the lawsuit. The arbitration Administrator shall be the American Arbitration Association. Each party shall bear its own arbitration costs, fees and expenses, unless otherwise ordered by the Administrator. Customer gives up Customer's right to participate in a class action. This means that Customer may not be a representative or member of any class of claimants or act as a private attorney general in court or in arbitration with respect to any claim. Notwithstanding any other part of this Arbitration Provision, the validity and effect of the Class Action Waiver must be determined only by a court and not by an arbitrator. If a court limits or voids the Class Action Waiver, then this entire Arbitration Provision (except for this paragraph) will be null and void. Judgment upon the arbitration award may be entered in any court having jurisdiction. This Arbitration Provision is governed by the Federal Arbitration Act and not

by any state arbitration law. The arbitrator is authorized to award all remedies permitted by substantive law that would apply if the action were pending in court.

28. ASSIGNMENT. Customer shall not assign or purport to assign these terms or any interest herein, or any right hereunder, without CompassTools prior written consent. Any such assignment without CompassTools prior written consent shall be null and void, and of no effect. This Agreement is fully assignable by CompassTools to any person or entity and shall inure to the benefit of such assignee or successor.

29. SEVERABILITY Whenever possible, each provision or portion of any provision of these terms shall be interpreted in such manner as to be effective and valid under applicable law, but if any of these terms is held void or unenforceable, it shall be deemed to be severed, and every other provision shall be enforced as if the void or unenforceable term was never part of these terms.

30. NO INDEMNIFICATION. Unless otherwise expressly stated in a writing signed by both parties, CompassTools does not indemnify, nor agree to defend or hold Customer harmless, against any liability, loss, damage or expense (including attorney's fees) relating to any claim whatsoever, including without limitation, a claim for personal injury, death or property damage.

31. IMPORT AND EXPORT. Customer shall, at its own expense, pay for all import and export licenses and permits, customs charges and duty fees, and take all other actions required to lawfully accomplish the export and import of products purchased by Customer. Customer warrants it will comply in all respects with the export and re-export restrictions set forth in the export license for every product shipped to Customer.

32. COMPLIANCE WITH LAW. Customer is solely responsible for obtaining and complying with any necessary permits and licenses from the Federal Communications Commission (FCC) or any other federal, state or local governmental authority, related to the purchase, installation, erection and operation of any products purchased hereunder. Customer shall be responsible for all FCC application fees and frequency coordination fees.

33. FOREIGN CORRUPT PRACTICES ACT. If Customer will be selling or distributing CompassTools products to a government or governmental agency of a foreign country, Customer shall comply with the Foreign Corrupt Practices Act of 1977 or any governmental requirement to a similar effect. Customer represents to CompassTools that it has not made, offered or agreed to offer anything of value to any governmental official, political party or candidate for government office which would cause CompassTools to be in violation of the Foreign Corrupt Practices Act of 1977 or any governmental requirement to a similar effect.

34. USE OF CUSTOMER'S NAME. CompassTools may use Customer's name and may disclose that Customer is a purchaser of CompassTools products or services. Such public disclosures shall not indicate that Customer endorses CompassTools products without prior written permission from Customer.