



Standard Terms and Conditions of Sale

Offer and Acceptance

Buyer agrees that these Standard Terms and Conditions of Sale (the "Seller's Terms"), as supplemented by any invoice of Seller (the "Invoice") shall constitute an agreement (the "Agreement") between the parties and shall govern all past and future purchases of goods and services from Seller. These terms shall prevail over any additional or different terms or conditions provided by Buyer, regardless of whether or when Buyer has submitted its purchase order or such terms, and any such terms or conditions provided by Buyer are deemed to be a material alteration of this Agreement and are hereby objected to by Seller and shall be deemed inapplicable to any sale of Seller's goods or services, unless specifically agreed to in a writing signed by an authorized representative of Seller.

The Invoice shall constitute an offer to Buyer on these Seller's Terms for the sale of Seller's goods and services which shall be deemed accepted by Buyer upon the delivery and non-rejection of Seller's goods. Any acceptance of Seller's offer is limited to Seller's Terms and shall constitute Buyer's consent to Seller's Terms as stated in this Agreement, which are in lieu of and supersede any and all terms and conditions stated on the Buyer's purchase order or other materials provided by the Buyer. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms. In the event that Buyer's purchase order or other material provided by Buyer shall be deemed to be the offer, Seller hereby rejects such offer and proposes that a contract be formed on the terms hereof.

Terms of Payment

All payments shall be made Net 30 days from the invoice date to Seller in U.S. Dollars to "Super Micro Computer, Inc., P.O. BOX 742066, Los Angeles, CA 90074-2066," or another location if so requested by Seller. All shipments and deliveries are subject to approval of Buyer's credit standing by Seller. Seller reserves the right to decline or postpone shipments for any reason except upon receipt and acceptance of payment or upon terms and conditions acceptable to Seller.

Price

Prices for Seller's products shall be those stated on the front side of the Invoice, which, unless otherwise stated in a writing signed by an authorized representative of Seller, do not include costs incurred for special packaging, shipping, or taxes. If prices are contingent on the purchase of a minimum quantity that is not met by the Buyer, Seller shall have the right to adjust the price accordingly. Unless otherwise specified in the Invoice, Buyer shall pay all invoiced amounts due to Seller on the terms set forth on the Invoice. Buyer shall not, and acknowledges that it shall have no right under these Seller's Terms or otherwise to withhold, offset, recoup or debit any amounts owed or to become due and owing to Seller or any of its affiliates against any other amount owed or to become due and owing to it by Seller or its affiliates.

Ex Works (EXW) and Risk of Loss

All shipments covered by this Agreement are Ex Works (EXW) Seller's facility (Incoterms 2010), unless otherwise specified in a Purchase Order and agreed to in writing by an authorized representative of Seller. For all deliveries EXW, Seller's liability for delivery shall terminate upon making Seller's products available to the carrier at Seller's facility (the "Shipment Time"), at which time title to and responsibility for damage to or loss of products shall pass to the Buyer. If for any reason Buyer fails to accept delivery of any of Seller's goods at the Shipment Time, title and risk of loss to Seller's goods shall pass to Buyer and Seller, at its option, may store the goods until Buyer retrieves them, whereupon Buyer shall be liable for all related costs and expenses (including without limitation storage and insurance).

As collateral security for the payment of the purchase price of Seller's goods, Buyer hereby grants to Seller a lien on and purchase money security interest in and to all of the right, title and interest, whether now existing or hereafter arising, of Buyer in, to and under the Seller's goods and all proceeds (including insurance proceeds) thereof.

Inspection and Rejection of Nonconforming Goods

Upon receipt, and no later than 14 days from Delivery Time (the "Inspection Period"), Buyer will complete inspection of Seller's goods for conformance with the Purchase Order. Buyer will be deemed to have accepted the goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller. "Nonconforming Goods" means only the following: (i) the goods shipped are different than identified in the Invoice; (ii) the goods label or packaging incorrectly identifies its contents; or (iii) goods are DOA ("Dead on Arrival").

If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming goods or (ii) credit or refund the price for such Nonconforming Goods. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's facility. Buyer acknowledges and agrees that the remedies set forth in this section are its exclusive remedies for the delivery of Nonconforming Goods.

Intellectual Property Rights

Seller agrees that it will indemnify and defend, at its own expenses, all suits against the Buyer for infringement of any patent covering product sold by the Seller. The responsibility of the Seller shall be however subject to the Buyer (i) promptly notifying the Seller in writing of a claim for infringement and in no event later than ten (10) working days after the receipt of such claim, and (ii) allowing the Seller, except in case of conflict of interest, to have the exclusive and full control of the defense of said claim and any related settlement action, being understood that the Buyer shall provide the Seller with any reasonable assistance that may be requested therewith. The Seller shall however have no liability if the infringement results from (i) any association, combination or use of the product or any part thereof with any other item, device, equipment or product which is not customarily used in association with the product and which is not supplied by the Seller, (ii) any repair, modification, improvement or enhancement of the product or any part thereof not made by or made without the prior written consent of the Seller or (iii) any use of the product or any part thereof for a purpose not contemplated by or authorized any order. The above provisions constitute the entire liability of for any claim for infringement of intellectual property related to the product.

Limitation of Liability

NEITHER PARTY SHALL BE LIABLE FOR ANY FAILURE TO PERFORM ON ITS PART WHICH IS DUE TO CAUSES BEYOND ITS CONTROL, EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE LIABILITY OF EACH PARTY, IF ANY, ARISING OUT OF AN AGREEMENT TO PURCHASE OR OTHERWISE WITH REGARD TO ANY GOOD FOR ANY AND ALL CLAIMS, COSTS, DAMAGES, LOSSES, LIABILITIES AND EXPENSES, WHETHER ARISING FROM NEGLIGENCE OR OTHER TORT, BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNITY, OR OTHERWISE SHALL NOT EXCEED THE TOTAL PRICE FOR THE GOODS AND SERVICES PURCHASED.

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING FROM THE USE OR INABILITY TO USE SELLER'S PRODUCTS OR DOCUMENTATION, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING WITHOUT LIMITATION, LOST OF REVENUES OR PROFITS. SELLER SHALL NOT BE LIABLE FOR ANY HARDWARE, SOFTWARE, OR DATA STORED OR USED WITH ANY PRODUCT, INCLUDING WITHOUT LIMITATION THE COSTS OF REPAIRING, REPLACING, INTEGRATING, INSTALLING OR RECOVERING SUCH HARDWARE, SOFTWARE OR DATA.

Limited Warranty

All of Seller's Products, are subject to Seller's Limited Warranty, available at www.supermicro.com/en/about/policies and are incorporated herein by reference.

Compliance with Laws and Export Regulations

Each Party agrees to comply with all applicable laws, rules, regulations, orders and ordinances of the United States and in any other state or country with jurisdiction over it or its activities in performance of its obligations hereunder.

The commodities, software and services listed herein on this Agreement and elsewhere may be subject to U.S. export control laws and regulations, including without limitation the Export Administration Regulations and the sanctions programs administered by the Office of Foreign Assets Control. The Parties acknowledge that any products, software, and technical information (including, but not limited to, services and training) provided by either Party under this Contract are or may be subject to export laws and regulations of the United States and the destination country(ies) and any use or transfer of such products, software and technical information must be authorized under those Laws. The Parties agree that they will not use, distribute, transfer or transmit the products, software or technical information (even if incorporated into other products) except in compliance with export Laws. If requested by either Party, the other Party agrees to sign all necessary export-related documents as may be required to comply with export Laws. Any export, re-export, or transfer or use of these commodities must be conducted in compliance with such applicable laws and regulations. Buyer shall not intentionally do anything to cause Seller to be in violation of such export control laws and regulations.

Force Majeure

Neither Party shall be liable for any loss, delay of failure to perform resulting from any force majeure event, including, but not limited to, acts of God, acts of terrorism, fire, natural disaster, epidemics, disease, labor stoppage, strike, shortage of parts or materials, any order, regulation, request of any national or local authority, government department or other competent authority of any country (including without limitation Seller's inability to obtain any export license or other approval that may be required by any government of competent jurisdiction), war or military hostilities, inability of carriers to make scheduled deliveries, or any other act beyond the control of either Party. Any delivery date may be extended, at Seller's option, to the extent of any delay resulting from any force majeure event.

Jurisdiction and Venue

All sales, transactions, and/or disputes between Seller and Buyers shall be governed by and construed in accordance with the laws of the State of California, as well as applicable federal statutes of the United States of America. The State of California, County of Santa Clara shall be the exclusive venue for the resolution of any disputes between Seller and Buyer arising from any invoice, any agreement to purchase or otherwise. Buyer's acceptance shall constitute consent to the jurisdiction and venue of the courts of Santa Clara County. The prevailing party shall be entitled to a reasonable compensation of attorney's fees, legal expenses, and costs.

Entire Agreement

The terms and conditions contained herein and in Seller's invoice together with the documents incorporated into any invoice by reference, shall constitute the complete and exclusive agreement between the Seller and Buyer which supersedes any prior or contemporaneous representations or agreements.

Any terms or conditions furnished by either Party that conflict with those stated in this Agreement shall be deemed inapplicable to any sale and shall not be binding on Seller. No modification, amendment, or waiver of the terms on this Agreement shall be binding on either Party absent a writing signed by the Parties.