



Design, Inc.

EDA Solutions

CADX DESIGN, INC. ("CADX") TERMS AND CONDITIONS OF SALE

1. **DELIVERY & SHIPMENT:** Delivery is F.O.B. Origin. All shipping charges are the responsibility of BUYER unless explicitly described otherwise in a valid CADX estimate. This means that once CADX has delivered to a shipping service, all risk of loss or damage is assumed by BUYER. In the absence of specific instructions from BUYER, CADX will use what it deems to be the most appropriate shipping service or delivery method.

All delivery / shipping times listed on CADX estimates are directly dependant upon CADX's receipt of all details relevant to the order's completion. Such delivery / shipping times are approximate and are subject to change at CADX's discretion.

2. **FORCE MAJEURE:** CADX shall not be liable for delays in delivery or failure to manufacture due to causes beyond its reasonable control, such as, acts of God, acts or omissions of BUYER, acts or omissions of civil or military authority, fires, strikes, floods, epidemics, quarantines, riots, wars, or any other cause beyond its reasonable control. In the event of such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay.
3. **PAYMENT TERMS:** Unless otherwise stated in CADX's quote, terms of payment are Net 30 days. All overdue accounts are subject to a charge of One and One-Half Percent (1.2%) per month on overdue balances.
4. **TAXES:** Prices quoted do not include sales, use, excise, or similar taxes. BUYER shall pay all such taxes.
5. **OWNERSHIP OF DESIGNS AND INTELLECTUAL PROPERTY:** It is the nature of CADX's business to design products from the ground up per the wishes of a customer, and also to build prototypes of those products and also to oversee production runs of those products. The creation of these designs often results in the creation of Intellectual Property, which has a value in and of itself. As such, while CADX makes no claims on BUYER's intellectual property, there are multiple standard arrangements for the handling of Intellectual Property created by CADX:
 - **STRICTLY FOR-HIRE:** All schematic data, PCB design data, PCB fabrication data, and PCB assembly data (excluding re-usable library components for both schematics and PCB designs) remains CADX's property until BUYER completes all compensation to CADX agreed to under the terms of the Purchase Order or other purchasing agreement or business partnership under which the data was created. Software created by CADX to function with a design purchased STRICTLY FOR-HIRE is covered below under INTEGRATED SOFTWARE. Other Intellectual Property created by CADX in the process of a STRICTLY FOR-HIRE arrangement remains the property of CADX.



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- **DESIGN PARTNERSHIP:** All design data and Intellectual Property remains CADX's property. Work performed as part of a DESIGN PARTNERSHIP is typically done at a below-market rate, and always with the understanding that CADX is investing efforts in a new product that will hopefully profit both CADX and BUYER. Production runs will be coordinated by CADX for a per-unit price that will allow CADX to reclaim the value of its efforts as determined by CADX. Ownership of prototypes and/or the first production run will not be transferred to BUYER until BUYER completes all compensation to CADX agreed to under the terms of the Purchase Order or other purchasing agreement or business partnership under which the prototypes and/or production run was initiated.

Unless otherwise specified on the estimate or proposal referred to in the Purchase Order or other purchasing agreement or business partnership, all such estimates or proposals are issued under the "DESIGN PARTNERSHIP" model.

6. **SALE OF UNCOMEPSTATED EFFORTS:** If BUYER fails to complete all compensation to CADX agreed to under the terms of a Purchase Order or other purchasing agreement or business partnership, CADX reserves the right to sell some or all of the schematic data, PCB design data, PCB fabrication data, PCB assembly data, integrated software or Intellectual Property created per the Purchase Order or other purchasing agreement or business partnership. In the event that BUYER has executed payment for a portion of the balance owed, CADX will refund BUYER that payment out of the proceeds of the sale, minus any interest charges or expenses incurred during efforts to collect the balance owed or to sell to another buyer.
7. **INTEGRATED SOFTWARE:** If CADX owned software ("Software") is integrated into equipment or devices designed or built by CADX ("Equipment"), CADX hereby grants to BUYER a non-exclusive license to use the Software only as part of and in conjunction with the equipment into which the Software is integrated. BUYER acknowledges that it does not acquire any right, title or interest in Software. Under no circumstances may BUYER copy, modify, decompile, reverse assemble, reverse engineer or make available to any other person or entity any Software without CADX's written approval. BUYER's use of third-party-owned software delivered by CADX shall be subject to the terms and conditions of such third party's license agreement. Non-exclusive license to use is subject to immediate termination upon BUYER's violation of any of the terms listed in this document.
8. **WARRANTY: DESIGN SERVICES, EQUIPMENT PROTOTYPES AND SOFTWARE:** All design services, equipment prototypes and software provided or furnished by CADX are on a best-efforts basis only. BUYER shall be solely responsible for determining whether CADX provided designs, prototypes and software meet BUYER's specifications. **CADX SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE.**

EQUIPMENT: CADX warrants that at the time of delivery and for a period of thirty (30) days thereafter CADX equipment sold will be in conformity with its published specifications and free from defects in material and workmanship, and the Software will enable the equipment to perform substantially in compliance with its specifications. CADX makes no warranty with respect to commercial items and software produced by other parties and incorporated into CADX products. Such third-party-commercial items and software are covered only by the warranties given by such third parties.



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IN THE EVENT OF A BREACH OF THE FOREGOING WARRANTIES, CADX'S SOLE LIABILITY AND OBLIGATION WILL BE TO REPAIR OR REPLACE, AT ITS SOLE DISCRETION, DEFECTIVE EQUIPMENT AND/OR SOFTWARE.

THE FOREGOING ARE THE SOLE WARRANTIES MADE BY CADX WITH RESPECT TO EQUIPMENT AND SOFTWARE. CADX SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE. CADX DOES NOT WARRANT THAT OPERATION OF ANY OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

The foregoing warranties do not apply to any designs, prototypes, equipment and/or software that has been altered or repaired by any person or entity other than CADX, has been subjected to misuse, improper maintenance, negligence or accident, has been damaged by excessive current or otherwise, or has had its serial number or any part thereof altered, defaced or removed.

9. **LIMITATION OF DAMAGES: UNDER NO CIRCUMSTANCES SHALL CADX BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY CLAIMED LOSS OF PROFITS, EVEN IF CADX WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CADX'S LIABILITY SHALL BE EXCLUSIVELY LIMITED TO THE REPAIR OR REPLACEMENT OF ANY DEFECTIVE OR NONCONFORMING ITEMS AND THE BUYER EXPRESSLY WAIVES ANY OTHER REMEDY OR MEASURE OF DAMAGE, STATUTORY OR OTHERWISE. IN NO EVENT SHALL CADX'S TOTAL LIABILITY FOR ANY CLAIM, WHETHER IN CONTRACT, WARRANTY, TORT OR OTHERWISE ARISING OUT OF, IN CONNECTION WITH, OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE UNDER THIS ORDER, AND/OR IN THE EVENT OF FAILURE OF THE LIMITED REMEDY, EXCEED THE PURCHASE ORDER PRICE.**

10. **MODIFICATIONS:** CADX reserves the right to modify or change equipment and software in whole or in part, at any time prior to delivery thereof, in order to include therein improvements deemed appropriate by CADX without changing the specifications and without incurring any liability to modify or change any items previously delivered, or to supply new equipment and/or software in replacement thereof.

11. **PATENTS:** CADX assumes no responsibility, unless agreed upon in writing, for any claim for infringement of any patent, trademark or copyright. BUYER shall indemnify CADX against liability for patent infringement in case of goods manufactured to specifications supplied by BUYER.



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12. **REJECTION OF BUYER'S TERMS AND CONDITIONS: TERMS AND CONDITIONS PROPOSED BY BUYER ARE HEREBY REJECTED. THESE TERMS AND CONDITIONS WILL BE THE SOLE TERMS AND CONDITIONS APPLICABLE TO ORDERS ACCEPTED BY CADX NOTWITHSTANDING ANY STATEMENT CONTAINED ON OR IN BUYER'S ORDER PREDICATING ORDER ACCEPTANCE UPON THE APPLICABILITY OF BUYER'S TERMS AND CONDITIONS.**
13. **CHOICE OF FORUM and GOVERNING LAW:** Disputes between CADX and BUYER shall be resolved in the courts of the State of New York or the US Government situated in Livingston County, New York, if not settled by negotiation between the parties. This agreement shall be construed and enforced in accordance with the laws of New York State, without reference to its rules governing the resolution of conflicts of laws. The provisions of the Convention on Contracts for the International Sale of Goods shall not be applicable.
14. **PARTIAL DELIVERIES:** Unless CADX and BUYER agree otherwise in writing, partial deliveries shall be acceptable to BUYER.
15. **PACKAGING FOR SHIPMENT:** Goods are packed in CADX's standard packing for shipment in the United States and are not packed for export shipment, unless CADX agrees otherwise in writing prior to entry of the order.
16. **EXPORT CONTROL:** For product items that are under U.S. Government export control, the obligation of CADX is subject to receipt of export license approval from the U.S. Government or other government.

BUYER hereby agrees that it will not knowingly export, directly or indirectly, any United States source technical data acquired from CADX or any of its affiliated companies, or any direct product of that technical data, to any country for which the United States government or any agency of that government, at the time of export, requires an export license or other governmental approval without first obtaining that license or approval.