

NCA Terms and Conditions



**Network Computing
Architects, Inc.**

170 120th Avenue NE, Suite 203
Bellevue, WA 98005
1.800.604.6536
SECURE FAX:
425.453.3461

Date: _____

Name of Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Individual Partnership Corporation

Date of Inc.: _____ State of Inc.: _____

EIN / SSND _____

As Applicable, List Corporate Officers, Partners, or Owners (please indicate signing officers)

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Accounts Payable Contact: _____ Email _____ Direct# _____

Estimated Maximum Credit Required: \$ _____

Are Purchase Orders to be issued? Yes No Authorized Individual(s) _____

Bank Reference

Name: _____ Contact Person: _____ Account No: _____

Address: _____ Phone No: _____

City: _____ State: _____ Zip: _____

Business References

Name: _____ Contact Person: _____ Account No: _____

Address: _____ Phone No: _____

City: _____ State: _____ Zip: _____

Name: _____ Contact Person: _____ Account No: _____

Address: _____ Phone No: _____

City: _____ State: _____ Zip: _____

Name: _____ Contact Person: _____ Account No: _____

Address: _____ Phone No: _____

City: _____ State: _____ Zip: _____

ACCOUNT AGREEMENT

The undersigned purchaser agrees to the following conditions (see back for complete terms and conditions):

1. To pay all invoices within the terms of the contract, or invoice, whichever is applicable.
2. To pay late payment charges at 1 1/2 % per month on invoices that are greater than 30 days old.
3. If suit is brought to collect any amount due, purchaser agrees to pay the cost of collection, plus reasonable attorney fees. At the option of the Company, the venue of any suit brought to collect this account may be held in King County, WA.
4. Purchaser authorizes the Company to contact any of the references contained in this Credit Application for the purpose of establishing a line of credit.

I Certify that the above information is correct and is given for the purpose of obtaining credit and to reconfirm our existing accounts and balances with:

Company Name: _____ Authorized Signature: _____

Dated: _____ Title: _____

TERMS AND CONDITIONS OF SALE

This constitutes acceptance by Network Computing Architects, Inc. ("NCA") of Buyer's purchase order referenced by customer order number on the front side hereof (or Buyer's telephonic order, if applicable), unless Buyer and NCA have executed a master contract which specifically supersedes and replaces the terms and conditions herein, this acceptance is expressly made conditional upon Buyer's assent expressed or implied to the terms and conditions set forth herein without modification or addition.

1) ACCEPTANCE

Buyer's acceptance of these terms and conditions shall be indicated by any of the following whichever first occurs: (a) Buyer's written acknowledgment hereof; (b) Buyer's acceptance of any shipment of any part of the items specified for delivery on the front side hereof (the "Products"); or (c) any other act or expression of acceptance by Buyer. NCA's acceptance is expressly limited to the terms and conditions hereof in their entirety without addition, modification, or exception, and any term, condition, or proposal hereafter submitted by Buyer (whether oral or in writing) which is inconsistent with or in addition to the terms and conditions set forth herein is objected to and is hereby rejected by NCA. NCA's silence or failure to respond to any such subsequent or different term, condition, or proposal shall not be deemed to be NCA's acceptance or approval thereof.

2) DELIVERY

Unless otherwise agreed in writing, delivery shall be made in accordance with NCA's shipping policy in effect on the date of shipment. Unless otherwise stated on the front of the invoice, title to, and all risk of loss or damage with respect to the Products shall pass to Buyer upon delivery by NCA to the carrier or Buyer's representative at NCA's warehouse or plant. Delivery is subject to the payment provisions set forth herein and to NCA's receipt from Buyer of all necessary information and documentation from Buyer including all import certificates, exemption, and/or resale certificates, licenses and other documents as may be required from Buyer for export of the Product. Buyer shall promptly notify NCA, in no event later than five

(5) business days after delivery, of any claimed shortages or rejection as to any delivery. Such notice shall be in writing and shall be reasonably detailed, stating the grounds for any such rejection. Failure to give any such notice within such time shall be deemed an acceptance in full of any such delivery. NCA shall not be liable for any shipment delays beyond the reasonable control of NCA which affect NCA or any of NCA's suppliers, including, but not limited to, delays caused by unavailability or shortages of Products from NCA's suppliers; natural disasters; acts of war; acts or omissions of Buyer; fire, strike, riot, or governmental interference; unavailability or shortage of materials, labor, fuel, or power, through normal commercial channels at customary and reasonable rates; failure or destruction of plant or equipment arising from any cause whatsoever; or transport failures.

3) PRICE AND PAYMENT

The Products are being invoiced at the prices specified on the front of the form. Buyer shall bear all applicable federal, state, municipal, and other government taxes (such as sales, use, and similar taxes), as well as import or custom duties, license fees and similar charges, however designated levied on this sale or the Products (or the delivery thereof) or measured by the purchase price hereunder. (NCA's prices set forth on the front side hereof, do not include such taxes, fees and charges). Exemption certificates must be presented prior to shipment if they are to be honored. Unless otherwise specified, payment terms are C.O.D. NCA, at its discretion, may require reasonable advance assurances of payment through irrevocable bank letters of credit, or otherwise. All unpaid invoices shall bear interest at an amount equal to 1 1/2% of the outstanding balance per month (or the maximum rate of interest allowed to be contracted for by law, whichever is less), commencing upon the date payment is due. Buyer's failure to make timely payment may result in such action as commencement or proceedings for collection, revocation of credit, stoppage of shipment, delay or cessation of future deliveries, repossession of unpaid delivered goods and termination of this agreement or any one or more of these. Notwithstanding any "net" payment provisions specified on the front of this form, NCA shall have no continuing obligation to deliver Products on credit, and any credit approval may be withdrawn by NCA at any time and without prior notice. NCA hereby retains (and Buyer grants to NCA) a security interest in the Products to secure payment in full and compliance herewith and Buyer agrees to execute any additional documents necessary to perfect such security interest. In the event this sales invoice shall be placed by NCA in the hands of an attorney or collection agency for the purpose of collection, with or without litigation, or for the purpose of enforcing NCA's security interest in the Products, the Buyer agrees to pay any and all costs associated with such placement, including, without limitation, attorney's fees, expenses, collection agency fees, and court costs incurred prior to, during, or subsequent to trial, and including, without limitation, collection, bankruptcy, or other creditor's rights proceedings. Such fees, expenses, and costs include all such amounts incurred in connection with any bankruptcy proceeding. If a sale is to occur, or the Product is to be shipped, outside of the United States, Buyer acknowledges and agrees that the amount due NCA is contracted in U.S. Dollars and that payment in U.S. Dollars is of the essence. Any payment by Buyer in local currency or the receipt by NCA of local currency as a consequence of enforcement procedures against Buyer will be deemed an authorization for NCA to use that local currency to purchase U.S. Dollars or, if such purchase is prohibited by local law, an authorization to purchase appropriate bonds or other instruments and export them from the Buyer's country in order to convert the currency into U.S. Dollars and apply the proceeds to the payment of any amounts owed to NCA by Buyer. Any deficiency as a result of conversion of payment into U.S. Dollars shall be the responsibility of the Buyer.

4) PRODUCT RETURNS

Return of Products purchased hereunder, whether for stock balancing purposes or because such Products are claimed to be defective, shall be governed by NCA's Product Return policies as set forth in NCA's Wholesale Catalog in effect on the date of this agreement, or as otherwise provided by NCA to Buyer in writing. NCA reserves the right to modify or eliminate such policies at any time. Although NCA's policies may permit Buyer to return Products claimed to be defective under certain circumstances, NCA makes no representations or warranties of any kind with respect to the Products. NCA HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AS TO THE PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NCA WILL NOT BE LIABLE FOR ANY DAMAGE, LOSS, COST OR EXPENSE FOR BREACH OF WARRANTY. The right to return defective products, as previously described, shall constitute NCA's sole liability and Buyer's exclusive remedy in connection with any claim of any kind relating to the quality, condition, or performance or any product, whether such claim is based upon principles of contract, warranty, negligence or other tort, breach of any statutory duty, principles of indemnity or contribution, the failure of any limited or exclusive remedy to achieve its essential purpose, or otherwise. In the event NCA issues a return authorization to Buyer allowing Buyer to return Product to NCA, Buyer will deliver the Product to NCA's address in the United States, if so required by NCA, and Buyer shall bear all applicable federal, state, municipal and other government taxes (such as sales, use and similar taxes) as well as import or customs duties, license fees and similar charges, however designated or levied on any replacement Product to be shipped by NCA to Buyer. Non-defective returns will be subject to a 20% restock fee. All returns must be in original packaging with all manuals and cables included.

5) LIMITATION OF LIABILITY

NCA SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE PRODUCT, INCLUDING BUT NOT LIMITED TO DAMAGES FOR THE LOST PROFITS, LOSS OF USE, LOST DATA OR FOR ANY DAMAGES OR SUMS PAID BY BUYER TO THIRD PARTIES, EVEN IF NCA HAS BEEN ADVISED OF POSSIBILITY OF SUCH DAMAGES, THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY OR CONTRIBUTION, THE FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE OR OTHERWISE.

6) GENERAL

These terms and conditions shall constitute the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and shall supersede all prior offers, negotiations, understanding and agreements. Unless Buyer and NCA have executed a master contract which specifically supersedes and replaces the terms and conditions herein, it is expressly agreed that no prior or contemporaneous agreement or understanding, whether written or oral, shall contradict, modify, supplement or explain the terms and conditions contained herein. No additional or different terms or conditions, whether material or immaterial, shall become a part of this agreement unless expressly accepted in writing by an authorized officer of NCA, in the United States. NCA, Inc. can only waive these terms and conditions expressly in writing. Any waiver by NCA of one or more of these terms and conditions or any defaults hereunder shall not constitute a waiver of the remaining terms and conditions or of any future defaults hereunder. It is the intention of the parties that this agreement shall be enforceable to the fullest possible extent, regardless of any partial invalidity or unenforceability, and that no failure or delay by either party in exercising or enforcing any right hereunder shall operate as a waiver thereof or preclude any other exercise or enforcement of rights hereunder. Any provision of this sales invoice that is prohibited or unenforceable under the laws of the State of Washington shall be ineffective to the extent of such prohibition or unenforceability, without impairing or invalidating the remaining provisions of this sales invoice. This agreement may not be assigned by Buyer without the prior written consent of NCA (which shall not be unreasonably withheld). This agreement shall be deemed made in, and shall be governed by the laws of the State of Washington. The venue for any disputes arising buy of this sales invoice shall be, at NCA's sole and exclusive option, King County, Washington, or the courts with proper jurisdiction at Buyer's location. ALL SALES TRANSACTIONS EXCLUDE THE APPLICATION OF THE 1980 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, IF OTHERWISE APPLICABLE.