
SPINNER ICT, Inc. TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES



1. **ACCEPTANCE.** The quotation (of which these terms and conditions are a part) is not valid unless accepted by the Buyer (a) in writing (including by fax or email) or (b) by valid transmission of payment.
2. **TAXES, DUTIES AND FEES EXCLUDED.** The quotation does not include sales, use or similar federal, state, local or other taxes, import fees or duties, all of which are to be paid by the Buyer in addition to the price quoted herein.
3. **PAYMENT TERMS.** SPINNER ICT, Inc. may in its discretion offer “net 30” or other credit terms to Buyer. Unless SPINNER ICT, Inc. offers credit terms to Buyer in writing in connection with this quotation, all payments are due on receipt. Unless expressly specified in the quotation, all prices are in U.S. dollars, and SPINNER ICT, Inc. is not obligated to accept payment in any other currency. Any payments owed but not paid by the Buyer as of the date they come due will accrue interest at five (5) percentage points above the prime rate most recently reported by the *Wall Street Journal* on the date the first such payment comes due (compounded daily), and the Buyer shall pay all such interest together with the late payment. Notwithstanding anything else herein to the contrary, if the Buyer fails to pay any amount due to SPINNER ICT, Inc. when it becomes due, then in addition to any other right or remedy at law or equity, SPINNER ICT, Inc. may cancel any orders it has previously accepted from the Buyer.
4. **NO MODIFICATION; PRECEDENCE.** The quotation is complete as written, and no changes, amendment or modification (including without limitation by conflicting or additional terms in a purchase order) shall be made to this quotation without a separate written quotation from SPINNER ICT, Inc. and a written acceptance by the Buyer. In the event of a conflict between these terms and conditions and a specific term of the remainder of the quotation, the remainder of the quotation will prevail.
5. **WARRANTY; EXCLUSIONS.** SPINNER ICT, Inc. warrants all goods manufactured by SPINNER and described in the quotation against any failure or defect in manufacture or workmanship for one (1) year from the date of delivery of the goods (the “Period of Coverage”), solely to the original purchaser thereof. Any replacement part provided by SPINNER ICT, Inc. will be warranted against any failure or defect in workmanship for a period of ninety (90) days from the date it is shipped to the Buyer, or to the end of the Period of Coverage, whichever may be longer. The exclusive remedy of the buyer in the event of any breach of these warranties shall be to return the affected goods to SPINNER ICT, Inc.; in that case, SPINNER ICT, Inc. will repair such goods, at no cost to the Buyer, except as stated below. Notwithstanding the foregoing, SPINNER ICT, Inc. has no liability, under these warranties or otherwise, for any failures or defects that arise other than from normal conditions during the warranty period, and this warranty expressly excludes failures or other damage caused by accident, misuse, neglect, modification, improper installation, or any use that does not conform with applicable documentation. This warranty is automatically voided upon any (a) intentional misuse of the goods, or any part thereof by the Buyer, or by any person acting on its behalf; (b) attempt to remove any parts from the goods that causes any damage to the part or to the goods; or (c) illegal use of the goods by the Buyer or by any person acting on its behalf. In order to have such goods repaired, the Buyer must return the failed goods to SPINNER ICT, Inc., shipping paid and insured. The goods must be shipped to SPINNER ICT, Inc. prior to the end of the warranty period. Return shipping from SPINNER ICT, Inc. to the Buyer will be borne by SPINNER ICT, Inc.
6. **LIMITATIONS OF LIABILITY; EXCLUSION OF WARRANTIES.** IN NO EVENT WILL BUYER BE ENTITLED TO INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES OR BUSINESS INTERRUPTION BASED ON THIS QUOTATION OR THE PRODUCTS OR SERVICES ORDERED, OR ANY REPLACEMENT PARTS PROVIDED BY SPINNER ICT, INC. EXCEPT IN THE EVENT OF SPINNER ICT, INC.’S GROSS NEGLIGENCE OR CRIMINAL ACT, IN NO EVENT WILL SPINNER ICT, INC.’S TOTAL LIABILITY HEREUNDER EXCEED THE TOTAL AMOUNT PAID UNDER THE TERMS OF THE QUOTATION. ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, EXCEPT AS EXPRESSLY SPECIFIED IN SECTION 4, ARE EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE GOODS OR SERVICES ORDERED, THE PARTS THEREOF, OR ANY REPLACEMENT PART SOLD OR PROVIDED UNDER THE TERMS OF THE QUOTATION. THE BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY



REPRESENTATION OR WARRANTY MADE BY SPINNER ICT, INC., OR ANY OTHER PERSON IN PURCHASING THE GOODS AND SERVICES UNDER THIS QUOTATION. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY AND EXCLUSION OF WARRANTIES REFLECTED IN THIS SECTION 6 ARE PART OF THE BASIS OF THEIR BARGAIN AND ARE REFLECTED IN THE PRICES INCLUDED IN THIS QUOTATION.

- 7. COVENANT NOT TO SUE.** As a part of the consideration for the goods, the Buyer agrees not to sue SPINNER ICT, Inc. in respect of the quotation or the goods described herein (unless SPINNER ICT, Inc. has breached one of the duties expressly created hereunder), and the Buyer further agrees to indemnify SPINNER ICT, Inc. from any and all claims, costs, fees, and expenses, including reasonable attorneys' fees, that may be required to be spent incident to any such claim by any party (unless SPINNER ICT, Inc. has breached one of the duties expressly created hereunder, and then limited only to that claim alone).
- 8. NO ASSIGNMENT.** The quotation may not be assigned, either in whole or in part, by the Buyer without the express written consent of SPINNER ICT, Inc., which consent SPINNER ICT, Inc. may grant or deny at its sole option and at its sole discretion.
- 9. CHOICE OF LAW; JURISDICTION AND VENUE.** The parties hereto agree that the quotation shall be interpreted and construed according to the laws of the state of Georgia, and the sole, exclusive jurisdiction and venue to hear any complaints or disputes that may arise in connection with the quotation shall lie in the courts of DeKalb County, Georgia (or, if necessary to establish subject-matter jurisdiction, the federal courts in Atlanta, Georgia), and the parties hereby consent to the personal jurisdiction of these courts and waive any objection (including of inconvenient forum) to these courts hearing such disputes. No other court, whether state or federal, may hear any such complaint or dispute; further, any and all claims or disputes arising under the terms of the quotation, including but not limited to the warranty provisions hereof, must be brought before such courts, if at all, within six (6) months of the end of the period of the warranty described herein.
- 10. SHIPPING; RISK OF LOSS.** All goods to be sold hereunder shall be shipped Ex-Works SPINNER ICT, Inc. (Incoterms 2010). Title and all risk of loss and damage shall pass to the Buyer at that point.
- 11. NONCONFORMING TERMS AND CONDITIONS.** The parties hereto agree that the terms and conditions set out in the quotation are and shall be the exclusive controlling terms and conditions of the sale of goods contemplated hereby. Any terms and conditions that might hereafter be proposed expressly or by implication by the Buyer in any form, including any terms or conditions contained in, or part of, any purchase order sent to SPINNER ICT, Inc. shall constitute Buyer's acceptance of the quotation (including these terms and conditions) in accordance with their terms, but will not amend, supersede or supplement the terms and conditions of this quotation.
- 12. SEVERABILITY.** In the event that any provision, term or condition of the quotation shall be deemed to be invalid or unenforceable by a court of competent jurisdiction, the parties intend that it be enforced to the maximum extent permitted by law and equity. In the case of any such invalidity or unenforceability, each and every remaining provision, term and condition shall be separate from that provision and shall remain in full force and effect.
- 13. CANCELLATION.**
 - a. Standard Orders. Orders with standard products and lead times can be cancelled up to 48 hours after the order acknowledgement has been sent at no charge. Thereafter, and up to 2 weeks prior to delivery, SPINNER ICT, Inc. will quote a cancellation charge upon request, which will be at a minimum 15% of the order value
 - b. Expedited Orders. Notwithstanding the foregoing, (a) for expedited deliveries, cancelled orders will only be accepted up to 24 hours from the date of order acknowledgement, and (b) for same-day delivery orders, cancelled orders are not allowed after receipt of order acknowledgement.



- c. Blanket Purchase Orders. Notwithstanding the foregoing, all blanket purchase orders cancelled on or after twenty-one (21) days after the order acknowledgment has been sent will require the Buyer to accept and pay for all costs actually accrued to date toward the next month's delivery. For delivery changes and returns, SPINNER ICT, Inc. will allow monthly delivery dates and quantity adjustments to blanket purchase orders, so long as the total amount of the original blanket purchase order is actually ordered by the original blanket purchase order end date.

14. APPROVALS. The Buyer is solely responsible to obtain any governmental or other permits, licenses, registrations or similar approvals in connection with its purchase or use of the goods and services it purchases pursuant to the quotation, and the payment of any fees in connection therewith. SPINNER ICT, Inc. shall consider in good faith any requests from the Buyer for reasonable assistance in connection with such approvals.

15. CONFIDENTIALITY.

- a. Definition. "Confidential Information" means the quotation (including these terms and conditions) together with any other non-public information, in any form and on any medium, disclosed or made available by SPINNER ICT, Inc. relating to this Agreement or its products or services, regardless of the form of disclosure, but excludes information (i) already known to the Buyer free of any restriction at the time it is obtained from SPINNER ICT, Inc.; (ii) that subsequently learned by the Buyer from a third party free of any restriction and without breach of this quotation, any agreement with the third party or any other confidentiality obligation; (iii) that becomes publicly available through no wrongful act of the Buyer; or (iv) is independently developed by the Buyer without use of or reference to any of the Confidential Information.
- b. Obligations. For a period of five (5) years from the date of this quotation, the Buyer will: (i) use the Confidential Information only to the extent necessary to perform the Buyer's obligations and exercise the Buyer's rights under this Agreement; (ii) disclose the Confidential Information only to the Buyer's personnel, and only to the extent necessary for such purposes; (iii) maintain the strict confidentiality of the Confidential Information using the same degree of care as the Buyer affords to its own confidential information of a similar nature, but in no event less than reasonable care, to prevent the unauthorized use or disclosure of the Confidential Information; and (iv) ensure that the persons to whom the Buyer discloses the Confidential Information strictly comply with the restrictions set forth in this Section 15.b.
- c. Return or Destruction. Upon SPINNER ICT, Inc.'s request, the Buyer will: (i) promptly deliver to SPINNER ICT, Inc. all originals and copies, in whatever form or medium, of the Confidential Information and all documents, records, data and materials, in whatever form or medium, containing the Confidential Information in the Buyer's possession, power or control (provided that the Buyer may retain a reasonable number of ordering documents in keeping with its ordinary accounting practices), and the Buyer will use commercially reasonable efforts to delete all of the Confidential Information from all of the Buyer's computer systems, retrieval systems and databases; and (ii) require that all persons to whom it has provided any of the Confidential Information comply with this Section 15.c.