



Terms of Sale

Protagd

Protagd LLC offers to sell and deliver products in accordance with the terms and conditions set forth herein. Acceptance of this offer is expressly limited to such terms. Protagd hereby objects to and rejects any additional or different terms proposed by Buyer, including those contained in Buyer's purchase order, unless Protagd expressly agrees to such terms in writing.

- Title and Delivery:** Shipments shall be delivered EXW (Incoterms 2000) Buyer's designated carrier. Title and liability for loss or damage shall pass to Buyer upon Protagd's delivery to Buyer's designated carrier. Any subsequent loss or damage shall not relieve Buyer from its obligations. Buyer shall be responsible for all import duties, taxes and any other expenses incurred or licenses or clearances required. Protagd may deliver products in installments. Delivery dates are estimates. Protagd shall not be liable for any damage, losses or expenses incurred by Buyer if Protagd fails to meet the estimated delivery dates.
- Taxes:** Prices do not include applicable taxes or duties. Buyer is solely responsible for paying all applicable taxes and duties. Protagd will add sales taxes to the sales price where required by applicable law, and Buyer will pay such taxes unless Buyer provides Protagd with a duly executed sales tax exemption certificate. If Buyer is required by law to withhold any amount of tax from its payment to Protagd, Buyer shall promptly pay such amount to the appropriate tax authority and take all reasonable steps to minimize such withholding tax.
- Warranties and Related Remedies:** Protagd warrants that Protagd semiconductor products will conform either to Protagd's published specifications for such product. This warranty lasts for three (1) year after the date Protagd ships such components to Buyer. Notwithstanding the foregoing, Protagd shall not be liable for any defects that are caused by neglect, misuse or mistreatment by an entity other than Protagd, including improper installation or testing, or for any components that have been altered or modified in any way by an entity other than Protagd. Moreover, Protagd shall not be liable for any defects that result from Buyer's design, specifications or instructions for such components.

If any Protagd components fail to conform to the warranty set forth above, Protagd's sole liability shall be at its option to repair or replace such components, or credit Buyer's account for such components. Protagd's liability under this warranty shall be limited to components that are returned during the warranty period to the address designated by Protagd and that are determined by Protagd not to conform to such warranty. If Protagd elects to repair or replace such components, Protagd shall have a reasonable time to repair such components or provide replacements. Repaired components shall be warranted for the remainder of the original warranty period. Replaced components shall be warranted for a new full warranty period.

EXCEPT AS SET FORTH ABOVE, PRODUCTS ARE PROVIDED "AS IS" AND "WITH ALL FAULTS." Protagd DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING SUCH PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

- Limitations and Damages Disclaimer:** IN NO EVENT SHALL Protagd BE LIABLE FOR ANY SPECIAL, COLLATERAL, INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS CONTRACT OR THE USE OF THE PRODUCTS PROVIDED

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HEREUNDER, REGARDLESS OF WHETHER Protagd HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, COST OF REMOVAL OR REINSTALLATION, ANCILLARY COSTS TO THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, RETESTING, OUTSIDE COMPUTER TIME, LABOR COSTS, LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF USE, LOSS OF DATA, OR BUSINESS INTERRUPTION. NO CLAIM, SUIT OR ACTION SHALL BE BROUGHT AGAINST Protagd MORE THAN ONE YEAR AFTER THE RELATED CAUSE OF ACTION HAS OCCURRED.

IN NO EVENT SHALL Protagd'S AGGREGATE LIABILITY FROM ANY WARRANTY, INDEMNITY, OR OTHER OBLIGATION ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT, OR ANY USE OF ANY Protagd PRODUCT PROVIDED HEREUNDER, EXCEED THE TOTAL AMOUNT PAID TO Protagd FOR THE PARTICULAR UNITS SOLD UNDER THIS CONTRACT WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. THE EXISTENCE OF MORE THAN ONE CLAIM AGAINST THE PARTICULAR UNITS SOLD TO BUYER UNDER THIS CONTRACT SHALL NOT ENLARGE OR EXTEND THIS LIMIT.

BUYER UNDERSTANDS AND AGREES THAT THE FOREGOING LIABILITY LIMITATIONS ARE ESSENTIAL ELEMENTS OF THIS CONTRACT AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE MATERIAL AND ECONOMIC TERMS OF THIS CONTRACT WOULD BE SUBSTANTIALLY DIFFERENT.

5. **Governing Law:** This contract shall be governed by and interpreted in accordance with the laws of the State of Texas, without reference to conflict-of-laws principles. If for any reason a court of competent jurisdiction finds any provision of this contract to be unenforceable, that provision will be enforced to the maximum extent possible to effectuate the intent of the parties, and the remainder of this contract will continue in full force and effect. This contract shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, or by the Uniform Computer Information Transactions Act (UCITA). Buyer agrees that non-exclusive jurisdiction for any dispute arising out of or relating to this contract lies within courts located in the State of Texas and consents to venue in Fort Bend County, Texas. Notwithstanding the foregoing, any judgment may be enforced in any United States or foreign court, and Protagd may seek injunctive relief in any United States or foreign court.
6. **Entire Agreement:** This contract constitutes the entire agreement between the parties relating to the sale of the products and supersedes all previous communications, representations, or agreements, either oral or written, with respect to the subject matter hereof. No prior representations or statements relating to the sale of the products made by any Protagd representative, which are not stated herein, shall be binding on Protagd. No addition to or modification of any provision of this contract shall be binding upon Protagd unless made in writing and signed by a duly authorized Protagd representative. No course of dealing or trade usage or course of performance shall be relevant to explain or supplement any term in this contract. These terms and conditions shall prevail notwithstanding any different, conflicting or additional terms and conditions that may appear on any purchase order or other writing not expressly incorporated herein, including but not limited to data sheets, application notes and purchase order acknowledgements. The section headings contained in this contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this contract.