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## TERMS AND CONDITIONS OF SALE

**These terms and conditions govern the sale of all products, parts and components ("Product(s)") by FTS FOREST TECHNOLOGY SYSTEMS LTD., its subsidiaries and affiliates ("FTS").**

- 1. Precedence.** These Terms and Conditions of Sale ("**Terms and Conditions**") take precedence over any additional, supplemental or conflicting terms and conditions asserted by the Buyer, to which notice of objection is hereby given. Neither Seller's commencement of performance nor manufacture or delivery of Product shall be deemed or constituted an acceptance of Buyer's supplemental or conflicting terms and conditions. The Buyer's acceptance and use of the Products shall be deemed to constitute confirmation and acceptance of the Terms and Conditions contained herein.
- 2. Amendment.** These Terms and Conditions may only be waived, amended or modified in a written agreement signed by an authorized representative of the Seller which makes express and unequivocal reference to these Terms and Conditions.
- 3. Prices and Payment Terms.** The prices and pricing terms for all Product sold by Seller are subject to the terms and conditions set out on the Seller's price list or as FTS may have separately quoted in writing to the Buyer. FTS reserves the right to amend its price list at any time. Payment in full is due from the Buyer upon order placement unless Buyer's credit has been approved by FTS. FTS reserves the right at any time to revoke or alter credit terms granted to Buyer.
- 4. Orders.** Any and all orders placed by Buyer are subject to acceptance by FTS. All orders must include target delivery dates, quantities and a complete description of Products. Orders may not be cancelled or altered without Seller's written consent which may be withheld or granted subject to such terms as the Seller may set. Seller may in its sole discretion allocate Product among its customers.
- 5. Delivery and Title.** Unless otherwise agreed to by FTS, all delivery of Product shall be made FOB place of origin and the carrier shall be deemed to be the Buyer's agent. Delivery of the Product to the carrier shall constitute delivery of the Product to the Buyer. Title to Product and risk of loss shall pass to Buyer upon delivery to the carrier provided that FTS reserves all right to stoppage in transit. Selection of carrier and of delivery route shall be made by FTS unless specified by Buyer. The Buyer acknowledges that lead times and delivery dates provided by FTS are estimates only. FTS reserves the right to ship before the delivery date if Product is available to ship. FTS shall not be liable for delays in delivery or for failure to perform due to causes beyond its reasonable control. In the event of delay caused by such event, the date of delivery shall be extended for a period equal to the time lost as a consequence of the delay in delivery without subjecting FTS to any liability or penalty. If Product is damaged, lost or stolen while in the custody of the carrier, FTS shall be deemed to have performed its obligations in full. Delivery of a quantity, which varies from the quantity specified, shall not relieve Buyer of the obligation to accept delivery and pay for the Products delivered. Delay in delivery of one installment shall not entitle Buyer to cancel other installments. FTS reserves the right to discontinue Products without notice and to cancel customer orders related to such Product.
- 6. Product Acceptance/Return Policy.** All shipments of Product will be deemed to have been accepted by Buyer upon delivery of the said shipments to Buyer or Buyer's agent unless rejected upon receipt. Buyer shall perform whatever inspection or tests Buyer deems necessary as promptly as possible but in no event later than ten (10) days after delivery of the Product to Buyer's agent, after which time Buyer will be deemed to have irrevocably accepted the Products. Any discrepancy in shipment quantity must be reported within ten (10) working days of receipt of the Products. Returned Products must be in the original packaging and must be undamaged. Products not eligible for return, in FTS' sole judgment, shall be returned to Buyer freight collect.

**7. Product Warranty.** FTS provides a limited 24-month warranty on all FTS manufactured products subject to the following terms and conditions:

(a) FTS warrants for a period of 24 months from the date of receipt of the Product by Buyer or Buyer's Agent (the "**Purchase Date**") that the Product:

- (i) complies with the FTS product specifications in effect on the Purchase Date; and
- (ii) is free of defect in materials and workmanship; subject at all times to the exclusions set out below (the "**Limited Warranty**");

(b) the Buyer must notify FTS of a warranty claim in writing within 24 months of the Purchase Date (a "**Warranty Claim**") and must ship, at its own expense, the Product to FTS, or to FTS's designated depot,

(c) FTS will review and verify each Warranty Claim and will, at its own discretion under each valid Warranty Claim, repair or replace the Product and return or ship the replacement Product to the Buyer, free of charge in full satisfaction of the Warranty Claim;

(d) FTS shall be entitled to use new and/or reconditioned parts in performing warranty repair or providing a replacement Product and also reserves the right to use parts or Product of new or improved design in any repair or replacement; all replaced Product and/or any parts removed from repaired Products shall become the property of FTS; the above warranty will continue to apply and remain in effect for the balance of the warranty period calculated from the Purchase Date (and not the repair or replacement date).

(e) The FTS Limited Warranty set out above does not provide cover or extend to the following which are expressly excluded:

- (i) failure due to normal wear and tear of the Product;
- (ii) failure due to extreme operating conditions or environment in which the Product is placed;
- (iii) failure due to fire, water, neglect, improper installation, generalized corrosion, biological infestations, or input voltages contrary to Product Specifications;
- (iv) Products which have been repaired or altered other than by FTS or FTS' authorized representative;
- (v) Products utilized as a component part of another product or equipment assembly;
- (vi) failure that is attributable to the improper use, storage, maintenance, installation or placement of the Product; and
- (vii) failure due to acts of God.

(f) The FTS Limited Warranty is not transferable and only applies to the first end-user purchaser of the Product; and

(g) The Buyer acknowledges that FTS does not warrant the results obtained from the Product or the implementation of recommendations made by FTS concerning the use, design or application of the Product.

Notwithstanding any terms and condition of sale and subject at all times to any of the limitations expressed in the Limited Warranty, no action by Buyer may be brought at any time for any reason against FTS more than twenty-four (24) months after the facts occurred upon which the cause of action arose.

**8. Liability Limitations.** FTS's liability on any claim, whether in warranty, contract, negligence, or any other legal theory, for loss, damage or injury arising directly or indirectly from or in relation to the use of Product shall not exceed the purchase price of the Product which gave rise to the claim. IN NO EVENT SHALL FTS BE LIABLE FOR PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER FORSEEABLE OR NOT INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUES, LOSS OF USE OF GOODS, OR LOSS OF BARGAIN. The Limited Warranty set out above is the sole warranty granted by FTS with respect to the Product and no oral or electronic communications, understanding, representation or warranty made on behalf of or with reference to FTS shall be of any effect or be any basis for further liability. FTS makes no further warranties, guarantees or covenants, express or implied, concerning the Product other than the Limited Warranty set out above and expressly disclaims any such warranty, covenant or guarantee, and the Buyer, where permitted by applicable law, hereby expressly waives any statutory or implied warranty that the Product shall be merchantable or fit for a particular purpose. The Buyer or end-user who purchases the Product assumes all responsibility and liability for loss or damage resulting from the handling or use of the Product. Any technical assistance or advice offered by Seller in regard to the use of any Product or provided in connection with Buyer's purchases is given free of charge and

only as an accommodation to Buyer. Seller shall have no obligation to provide any technical assistance or advice to Buyer and if any such assistance or advice is provided, it is provided at the Buyer's own risk, without liability or responsibility on behalf of the Seller and such fact will not obligate Seller to provide any further or additional assistance or advice.

**9. Export Control/Use of Product.** The Buyer certifies that it will be the recipient of Products to be delivered by FTS and acknowledges that the Product may be subject to the export and/or import control laws and regulations including those of Canada and, where applicable, the United States. Buyer agrees that it shall, at the request of the Seller, provide end-user documentation and certification and that it shall otherwise strictly comply with all Canada and U.S. export laws and assume sole responsibility for obtaining licenses and/or permits to export or re-export as may be required. The Buyer agrees that it shall not directly or indirectly export any Products to any country to which such export or transmission is restricted or prohibited.

**10. Jurisdiction.** The terms and conditions of sale for all Products sold by FTS shall be governed by, and construed in accordance with the laws of the Province of British Columbia, Canada, without reference to conflict of laws principles. The Buyer and FTS agree that any action, demand, claim or counterclaim relating to the terms and provisions of the terms and conditions of sale and contract between the Buyer and FTS, or to any claimed breach, shall be commenced in a court of competent jurisdiction in the Judicial District of Victoria, B.C., Canada and both parties expressly acknowledge that personal jurisdiction and venue shall lie exclusively in Victoria, BC., and hereby attorn to such jurisdiction. With respect to all disputes, the provisions of the United Nations Convention on Contracts for the International Sale of Goods 1980 (as amended, replaced or codified from time to time) shall not apply.

**11. Force Majeure.** FTS shall not be liable for its inability to secure sufficient quantities of any Product or failure to deliver due to causes beyond FTS's reasonable control including, but not limited to, acts of God, natural or artificial disaster, riot, war, strike, delay by carrier, shortage of Product, acts or omissions of other parties, acts or omissions of civil or military authority, Government priorities, changes in law, material shortages, fire, strikes, floods, epidemics, quarantine restrictions, acts of terrorism, delays in transportation or inability to obtain labor, materials or Products through its regular sources, all of which shall be considered as an event of *force majeure* excusing Seller from performance and barring remedies for non-performance. In the event of a *force majeure* condition, FTS's time for performance shall be extended for a period equal to the time lost as a consequence of the *force majeure* condition without subjecting FTS to any liability or penalty. FTS may, at its option, cancel the remaining performance, without any liability or penalty, by giving notice of such cancellation to Buyer.