



## Sales Terms & Conditions

This Agreement is between you as the Buyer and American Time & Signal Company, Inc. ("American Time") and it sets forth the terms and conditions under which you agree to purchase the products/services set forth in American Time's Sales Order.

### **THIS IS A CONTRACT. PLEASE READ THESE TERMS CAREFULLY.**

- 1) **Binding Contract:** Any Sales Order or invoice from American Time relating to the sale of goods (herein referred to as the "Goods") will become a binding contract and subject to the conditions set forth herein and therein when Buyer accepts any shipment of the Goods. Receipt of Buyer's Purchase Order will not be an acceptance or confirmation of any other terms. The Purchase Order/invoice will be subject to the terms and conditions set forth herein and no others unless there is a signed overriding agreement between the parties. Any additional or different terms or conditions proposed by Buyer are hereby rejected.
- 2) **Complete Agreement:** This contract and sale to Buyer is limited to and conditioned on Buyer's assent to the terms and conditions of this Agreement. The terms and conditions in this Agreement constitute the complete agreement of the parties, are a complete and exclusive statement of the terms of that agreement and supersede any previous or contemporaneous communications, representations or agreement, whether oral or written, with respect to the Goods. The terms and conditions of the invoice cannot be changed or amended except by a written agreement signed by an officer of American Time. This Agreement is not for the benefit of any third party except our parents, affiliates, subsidiaries, agents, related parties, subcontractors, assignees and successors in interest. You agree that a copy of this Agreement and proof of the manner of execution will be deemed to be an original for all purposes. You agree that we may save and store all agreements and other documents executed by you in an electronic media and all such agreements and other documents will be deemed to be, and may be used by us as, originals and will be given the same force and effect as paper-form originals. No person, including any representative, employee, or agent of American Time is authorized to assume on behalf of American Time any liability or responsibility in addition to or different from what is described in this Agreement.
- 3) **Price Revision:** Unless otherwise expressly stated by American Time, prices are subject to revision without notice. Goods will be supplied and invoiced at the prices in effect at the time of shipment. If any price revision is not accepted, American Time, without liability and at its opinion, may either continue to supply Buyer at the contract price and terms then in effect or terminate this contract, either in its entirety or with respect to future shipments of the Goods affected, as of the effective date of the price revision or any later date by so notifying Buyer in writing. All prices are in US Dollars.
- 4) **Credit:** Whenever American Time, in its sole judgment, has any doubt as to Buyer's creditworthiness or financial responsibility, American Time may require payment in cash in advance of shipment.
- 5) **Payment Terms:** Payment terms are as agreed between American Time and Buyer in writing for each order of Goods.
- 6) **Separate Contracts:** Each shipment to Buyer will constitute a separate and independent contract governed by these Terms and Conditions and will be separately invoiced and paid for when due, without regard to subsequent deliveries. American Time will have the right at all times, among other remedies, either to terminate any contract or to suspend further deliveries upon failure of Buyer to pay for any one shipment when it becomes due or when Buyer is in default of any other sales agreement between Buyer and American Time. Delay or default in any delivery or shipment will not relieve Buyer of its obligations to accept remaining deliveries. Upon such termination or suspension by American Time, all Buyers' outstanding obligations to American Time will be immediately due and payable.
- 7) Quotes are provided based on our system recommendations. It is Buyer's responsibility to confirm that the system quoted is meeting the project requirements.

- 8) **Shipping:** Unless otherwise specified by American Time, all Goods are sold “EXW The American Time & Signal Company, Inc.’s plant.” Unless otherwise specified by Buyer, means of shipment will be at the sole discretion of American Time. Any quoted delivery date is only an estimate. EXW (Ex Works) –means that American Time makes the order available for Buyer at American Time for delivery.
- 9) **Inspection:** Buyer will examine each shipment upon its arrival at Buyer’s facilities and will promptly notify American Time in writing of any shortage, loss or damage apparent under reasonable examination. Failure by Buyer to forward such notification to American Time within 5 days after arrival will constitute an absolute and unconditional waiver of all claims for any such shortage, loss or damage.
- 10) **Warranty:** The warranty will begin on the date of the invoice. The period during which this Warranty is in effect will depend upon the Product to which it relates. American Time’s obligation will be limited to repair or replacement of any components that fail in normal use during the warranty period. Such repairs or replacements will be made at no charge to Buyer. In the event that American Time repairs or replaces a defective product under warranty, the repaired or replaced product will be covered through the end of the original warranty period, but no repair or replacement will extend the warranty term.
- A. **Statement for replacement products or parts (if applicable):** When warranty service involves the replacement of a product or part, the replaced product or part becomes property of American Time and the replacement product or part becomes property of Buyer. Only unaltered American Time products and parts are eligible for replacement. The replacement product or part provided by American Time may not be new, but it will be in good working order and functionally equivalent to the original product or part. The replacement product or part will be warranted for the balance of the period remaining on the original product warranty. Products and parts presented for repair may be replaced by refurbished products or parts of the same type rather than being repaired.
  - B. **Product Changes:** American Time may change or discontinue Products at any time. In such event, American Time may fulfill Buyer’s order with a Product that has the functionality and performance as the Product ordered by Buyer.
  - C. **What this warranty covers:** American Time warrants that each American Time product purchased by Buyer is free from defects in materials and workmanship under normal use during the warranty period.
  - D. **This warranty does not cover:**
    - (1) Physical damage to this product;
    - (2) Product failure or damage caused by improper installation, lack of periodic maintenance, Network configuration, password setting/resetting, computer virus or malware, improper or abnormal physical or electrical stress, misuse, neglect or accident
    - (3) Damage caused by another device or software used with this product (including, but not limited to, damage caused by installation of programs or applications, or use of any accessories, consumable items or peripheral equipment not provided or approved by American Time for use with the Product);
    - (4) Problems arising from anything other than defects in materials or workmanship;
    - (5) Consumables or other items requiring periodic maintenance or replacement with ordinary wear and tear, including, but not limited to, product batteries, cables, brightness and uniformity deterioration;
    - (6) The loss of any data howsoever caused. You will be responsible for backing up and protecting data against loss, damage or destruction. Please note that the repair of product may result in loss of data;
    - (7) The de-installation or reinstallation of the American Time Product.
  - E. **Shipping:** American Time pays for shipping when sending items to Buyer. Buyer pays for shipping when sending items to American Time.
- 11) **Limited Warranty and Disclaimer:** This warranty is VOID if American Time does not receive written notice of the alleged defect within twenty (20) days of its discovery or if this product has been altered or modified in any way including, but not limited to, attempted warranty repair other

than by American Time or an authorized service partner. Furthermore, failure to pay the entire contract price when due will be a waiver by Buyer of all rights under this warranty. American Time does not warrant that its software is error free or that end users will be able to operate the software without problems or interruption. In addition, American Time will not be liable for Buyer's or any third party's software, firmware, information, or memory data contained in, sorted on, or integrated with any product returned to American Time, whether under warranty or not. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO GOODS DELIVERED UNDER THIS CONTRACT, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The foregoing warranty runs only to Buyer. There are no oral or written promises, representations or warranties collateral to or affecting this contract. Representatives of American Time may have made oral statements about products described in this contract. Such statements do not constitute warranties, will not be relied on by Buyer and are not part of the contract.

- 12) **Assumption of Risk:** Buyer assumes all risk and liability whatsoever for any and all injuries (including death), losses or damage to persons or property or otherwise resulting from the possession, handling, storage, transportation, use or other disposition of Goods sold, whether used alone or in connection with other goods or equipment.
- 13) **Limitations of Remedies:** THE WARRANTIES AND REMEDIES CONTAINED HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED OR STATUTORY, INCLUDING ANY LIABILITY ARISING UNDER ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IMPLIED, STATUTORY OR OTHERWISE. IN NO EVENT WILL AMERICAN TIME BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER RESULTING FROM THE USE, MISUSE OR INABILITY TO USE THIS PRODUCT OR FROM DEFECTS IN THE PRODUCT. IN ADDITION, AMERICAN TIME WILL NOT BE LIABLE FOR BUYER'S OR ANY THIRD PARTY'S SOFTWARE, FIRMWARE, INFORMATION, OR MEMORY DATA CONTAINED IN, SORTED ON, OR INTEGRATED WITH ANY PRODUCT. AMERICAN TIME AND ITS SUPPLIERS RESERVE THE RIGHT TO MAKE CORRECTIONS, MODIFICATIONS, ENHANCEMENTS, IMPROVEMENTS AND OTHER CHANGES TO ITS PRODUCTS, PROGRAMS AND SERVICES AT ANY TIME OR TO DISCONTINUE ANY PRODUCTS, PROGRAMS, OR SERVICES WITHOUT NOTICE. IN NO EVENT WILL ANY RECOVERY AGAINST AMERICAN TIME EXCEED THE ACTUAL PRICE PAID FOR THE PURCHASE OF THE PRODUCT.
- 14) When placing orders for custom painted or printed items (such as dials, cases, hands and other items), colors may differ from one order to another due to the nature of the printing process.
- 15) **Limitation on Actions; Waiver of Jury Trial; Arbitration**  
YOU AND WE AGREE TO ARBITRATE ANY AND ALL DISPUTES AND CLAIMS INCLUDING, BUT NOT LIMITED TO, CLAIMS BASED ON OR ARISING FROM ANY ALLEGED TORT, OR ARISING OUT OF OR RELATING TO AGREEMENT EXCEPT FOR THE COLLECTION OF MONIES OWED BY YOU TO US UNDER THIS AGREEMENT.
  - A. Arbitration of any dispute or claim EXCEPT for collection of past due accounts will be conducted in accordance with the rules of the American Arbitration Association ("AAA"). The AAA rules and fee information are available from the AAA upon request. YOU ARE RESPONSIBLE FOR THE PAYMENT OF ALL OF YOUR COSTS AND EXPENSES IN CONNECTION WITH THE ARBITRATION, INCLUDING THE FILING FEE AND YOUR COST OF TRAVELING TO THE ARBITRATION SITE. You and we acknowledge this Agreement evidences a transaction in interstate commerce and the Federal Arbitration Act will govern interpretation and enforcement of, and proceeding pursuant to, this or a prior agreement. UNLESS YOU AND WE AGREE OTHERWISE IN WRITING, THE LOCATION OF THE ARBITRATION WILL BE IN THE STATE OF MINNESOTA.
  - B. Except where prohibited by law, you and we agree that no arbitrator has authority to (1) award relief in excess of what this Agreement provides, (2) award punitive damages or any other damages not measured by prevailing party's actual damages, nor permitted by this Agreement, or (3) order consolidation or class arbitration. The Arbitrator must give effect to the limitations on our liability as set forth in this Agreement. You agree that you and we are each waiving our respective rights of a trial by jury and you acknowledge that arbitration is final and binding and subject only to very limited review by a court. This

arbitration provision does not apply to the collection of past due amounts owed by you to us. Both parties hereby agree that no suit or action that relates in any way to this Agreement (whether based upon contract, negligence or otherwise) will be brought against the other more than one (1) year after the accrual of the cause of action. In addition, if arbitration is not available, both parties hereby waive any rights to a jury trial in any judicial action by either party which relates in any way to this Agreement, whether based upon contract, negligence or otherwise.

- 16) **Indemnification:** Buyer will release, defend, indemnify and hold American Time and its assignees, agents, employees, attorneys, subsidiaries, affiliates and parent companies harmless from and against any and all claims or liability relating to design, installation, or operation of the Goods and the performance of any service covered by this Agreement, including payment of all damages, expenses, costs and attorney’s fees, whether such claims or liability be based upon negligence, warranty or strict product liability on our part, or on the part of our assignees, agents, employees, subsidiaries, affiliates or parent companies. You will indemnify, defend and hold us harmless, and our assignees, agents, employees, subsidiaries, affiliates and parent companies from and against all claims, lawsuits and losses that claim loss sustained by parties or entities other than parties to this Agreement. This provision will apply to all claims, lawsuits or damages caused by our negligent performance whether active or passive and to all claims based on defects in design, installation, maintenance, monitoring, operation or non-operation of the Goods, whether those claims be based upon negligence, gross negligence, warranty, or strict products liability on our part, or on the part of our assignees, agents, employees, subsidiaries, affiliates and parent companies.
- 17) **Returns:** Unless otherwise specified by American Time, all products purchased are subject to the following return policy:
- A. Due to the customization of products to meet specific customer requirements and specifications, products which are non-returnable and/or non-refundable Will be clearly identified on the Sales Order Acknowledgement. Under no circumstances will the return of these referenced items be accepted and Buyer will bear full responsibility for the payment of the related obligation.

**Non-Cancelable/Non-Returnable (NCNR) Products & Quantity Qualification**

<b>Product Category</b>	<b>NCNR product order quantities equal to or greater than</b>
<b>Logo Clocks</b>	NCNR
<b>EverAlert Devices</b>	NCNR
<b>Digital Clocks</b>	5
<b>Analog Double-Sided Clocks</b>	10
<b>Guards</b>	15
<b>Analog Aluminum and Wood Case Clocks</b>	25

- B. All products, other than those described above and indicated on the Sales Order Acknowledgement, will be returnable with the request for an Return Merchandise Authorization (RMA) within 30 days of invoice and the actual return of the product in 90 days of the invoice date and will be subject to a restocking charge equal to 25% of the sales price invoiced. In addition, return quantities will be limited to a specific number of units depending upon the product and size of order, which is also indicated within the current price list.
- C. **Shipping:** American Time pays for shipping when sending items to Buyer. Buyer pays for shipping when sending items to American Time.
- 18) **Notices:** Notices are considered delivered when we send them by email or fax to any email address or fax number you’ve provided to us, or three (3) days after mailing to the most current billing address we have on file for you.
- 19) **Choice of Law/Venue/Jurisdiction:** This Agreement will be governed by the laws of the State of Minnesota, without reference to conflicts of laws rules, and

- 20) action arising out of this Agreement must be brought in the federal or state courts located in and for the state of Minnesota.
- 21) **Severability/Waiver:** If a court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, that provision will be null and void to the extent determined by the court; however, each remaining provision in the entire Agreement will continue to be valid and enforceable. A waiver of any part of this Agreement in one instance isn't a waiver of any other part or any other instance.