



## TERMS AND CONDITIONS OF SALE

These terms and conditions are subject to change without prior written notice at any time, in HPC Systems, Inc. sole discretion.

**1. Other Documents.** Other than as specifically provided in any separate formal purchase agreement between Customer and HPC Systems, Inc., these terms and conditions may NOT be altered, supplemented, or amended by the use of any other document(s). Any attempt to alter, supplement or amend this document or to enter an order for product(s) which is subject to additional or altered terms and conditions will be null and void, unless otherwise agreed to in a written agreement signed by both Customer and HPC Systems, Inc.

**2. Governing Law. THIS AGREEMENT AND ANY SALES THEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAWS RULES.**

**3. Payment Terms; Orders; Quotes; Interest.** Terms of payment are within HPC Systems, Inc. sole discretion, and unless otherwise agreed to by HPC Systems, Inc., payment (company purchase order, credit card, company check or cashiers check) must be received by HPC Systems, Inc. prior to HPC Systems, Inc. acceptance of an order. Payment for the products and services and support may be made by credit card, wire transfer, or some other prearranged payment method unless HPC Systems, Inc. has agreed to credit terms. Invoices are due and payable within the time period noted on the reverse side of this invoice, measured from the date of the invoice. HPC Systems, Inc. may invoice parts of an order separately. Orders are not binding upon HPC Systems, Inc. until accepted by HPC Systems, Inc. Any quotations given by HPC Systems, Inc. will be valid for the period stated on the quotation. Customer agrees to pay interest on all past due sums at the highest rate allowed by law.

**4. Shipping Charges; Taxes.** Separate charges for shipping and handling will be shown on the invoice(s). Unless Customer provides HPC Systems, Inc. with a valid and correct tax exemption certificate applicable to the product ship-to location prior to HPC Systems, Inc. acceptance of the order, the Customer is responsible for sales and all other taxes associated with the order, except for HPC Systems, Inc. franchise taxes and taxes on HPC Systems, Inc. net income. If applicable, a separate charge for taxes will be shown on the invoice.

**5. Title; Risk of Loss.** All product shipped is F.O.B. origin unless otherwise stated. Title to products passes from HPC Systems, Inc. to Customer on shipment from HPC Systems, Inc. facility. Loss or damage that occurs during shipping by a carrier selected by HPC Systems, Inc. is HPC Systems, Inc. responsibility. Loss or damage that occurs during shipping by a carrier selected by Customer is Customer's responsibility. Title to software will remain with the applicable licensor(s). If customer defaults on payment, HPC Systems, Inc., Inc. reserves the right to reposes equipment and agrees to pay the expenses to do so.

**6. Warranties.** THE LIMITED WARRANTIES APPLICABLE TO HPC SYSTEMS, INC. BRANDED PRODUCTS ARE INCLUDED IN THE DOCUMENTATION PROVIDED WITH THE PRODUCTS. THERE ARE NO WARRANTIES FOR SERVICES. HPC SYSTEMS, INC. MAKES NO EXPRESS WARRANTIES EXCEPT THOSE STATED IN HPC SYSTEMS, INC. APPLICABLE WARRANTY STATEMENT IN EFFECT ON THE DATE OF THE INVOICE. ANY SUCH WARRANTIES WILL BE EFFECTIVE, AND HPC SYSTEMS, INC. WILL BE OBLIGATED TO HONOR ANY SUCH WARRANTIES, ONLY UPON HPC SYSTEMS, INC. RECEIPT OF PAYMENT IN FULL FOR THE ITEM TO BE WARRANTED.

**7. Software.** All software is provided subject to the license agreement that is part of the package. Customer agrees that it will be bound by the license agreement once the package is opened or its seal is broken. HPC Systems, Inc. does not warrant any software under this Agreement. Warranties, if any, for the software are contained in the license agreement that governs its purchase and use.

**8. Return Policies.** HPC Systems, Inc. servers/workstation/storage hardware systems and parts are custom built specifically to meet a customer's specification. Therefore no cancellation of a purchase order will be allowed 24 hours after the receipt of the purchase order. After the shipment of the product, our standard warranty and RMA process applies: HPC Systems, Inc., at its sole discretion, may either: (i) replace any equipment proved to be defective, (ii) remedy or repair such defect or (iii) refund the purchase price of the defective equipment in the form of a credit applicable to future purchases. HPC Systems' obligation and Buyer's sole remedy will be limited to these options.

**9. Exchanges.** From time to time, HPC Systems, Inc. may, in its sole discretion, exchange products or portions of a product to assist the customer.

**10. Products.** HPC Systems, Inc. continually upgrades and revises its products and service offerings to provide HPC Systems, Inc. customers with new products and service offerings. HPC Systems, Inc. may revise and discontinue products at any time without prior notice to customers. HPC Systems, Inc. will ship products that have the functionality and performance of the products ordered, but changes between what is shipped and what is described in a specification sheet or catalog are possible. The parts and assemblies used in building HPC Systems, Inc. products are selected from new and assemblies in accordance with industry practices. Spare parts may be new or reconditioned. The quoted HPC Systems, Inc. SKU numbers for HPC Systems, Inc. branded hardware products are of the quantity specified by HPC Systems, Inc. and conform in all material respects with the HPC Systems, Inc. product specifications current on the date such products were shipped.

**11. HPC Systems, Inc. Software and Peripherals Products.** Any warranty and technical support provided on third-party products purchased through HPC Systems, Inc. are provided by the original manufacturer and not by HPC Systems, Inc. These products may be returned only in accordance with the return policy in effect on the date of invoice.

**12. Limitation of Liability.** HPC SYSTEMS, INC. DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH HEREIN, INCLUDING ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST OR CORRUPTED DATA OR SOFTWARE, OR THE PROVISION OF SERVICES AND SUPPORT. HPC SYSTEMS, INC. WILL NOT BE LIABLE FOR LOST PROFITS, LOSS OF BUSINESS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED

OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY EXCEPT AS EXPRESSLY PROVIDED HEREIN. CUSTOMER AGREES THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCTS OR SERVICES BUNDLED WITH THE PRODUCTS, HPC SYSTEMS, INC. IS NOT LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE AGGREGATE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PURCHASE OF PRODUCTS OR SERVICES UNDER THIS AGREEMENT.

**13. Service and Support.** HPC Systems, Inc. will provide general technical support to Customers in the United States, in accordance with the then-current technical support policies in effect. HPC Systems, Inc. will only support the original hardware and software configuration as it was shipped from our factory. If the end user has completed any software or hardware upgrades since the original specification we will offer a fee for services charge for our technical support on an as needed basis. If our system carries an agency approval such as UL, FCC and CE any hardware additions completed by the end customer will nullify these approvals. The end customer will need to speak with technical support to see which components can be added in order to stay compliant with these safety regulations. Power supplies are intended to distribute a reasonable amount of power within the system. Should the end user install a non approved product and/or too many power consuming devices the entire warranty will be void. Should the end user "overclock" the system all warranties are null and void. Overclocking is manually adjusting the processor to attain speeds that exceed the processor manufacturers' original intention and specification. Overclocking can also lead to overheating and fire in some cases and is strongly discouraged. Service offerings may vary from product to product. HPC Systems, Inc. has no obligation to provide service or support until HPC Systems, Inc. has received full payment for the product or service/support contract for which service or support is requested.

**14. Headings.** The section headings used herein are for convenience of reference only and do not form a part of these terms and conditions, and no construction or inference shall be derived there from.

**15. Force Majure.**

All efforts will be made to ensure the smooth delivery of product and services; however the company shall not be liable for any delay or failure to perform its obligations due to or results from any circumstances beyond its reasonable control. Such acts include but are not limited to, delays or defaults of suppliers, defaults of any sub-contractor, acts of war, strike, lockouts, trade dispute, flood, earthquakes, and unavailability of power, communication line failures, or other disasters.