



## ADB Safegate Americas, LLC

### Terms of Sale for Goods and Services

All references herein to "Seller" refer to ADB Safegate Americas, LLC. All references herein to currency, "\$", or "dollars" shall mean the legal tender of the United States of America.

**1. ACCEPTANCE OF ORDERS:** Seller's published prices and quotations are solicitations for offers to purchase. No order shall be binding upon seller until accepted in writing by seller at its headquarters office. The issuing of submittal data or materials shall not be deemed to constitute acceptance of an order. Orders accepted by seller based on its quotation do not imply or guarantee that such equipment conforms precisely to the Buyer's "plans and specifications." Terms of this Terms and Conditions of Sale will apply to orders accepted, regardless of terms stated on purchase order received. Seller's acceptance of the Buyer's order is conditioned upon the Buyer's assent to the terms and conditions set forth herein and shall be deemed a part of such order. No modified or additional conditions will be accepted by Seller unless specifically agreed to in writing. Seller's failure to object to such modified or additional provision contained in any purchase order or other communication from the Buyer shall not be construed as a waiver of the conditions as defined herein or an acceptance of any such modified or additional conditions proposed by the Buyer. No order accepted by Seller may be altered or modified by the Buyer unless agreed to by Seller in writing.

**2. PRICES:** Orders, except orders on hold or orders with deferred ship dates, will be invoiced at the price in effect at the acceptance of the order. Orders on hold will be invoiced with the price in effect at the release date. Deferred orders will be invoiced with the price in effect on the ship date. Orders on a bid or contract basis are not subject to this clause. The minimum order is \$150.00 net. Any order below \$150.00 net will be invoiced at \$150.00 net. Minimum quantities may apply on some products. The Seller's prices include the costs of standard domestic packing only. Due to the volatility in commodity pricing, Seller may incur surcharges from its vendors to cover fluctuations in raw material pricing. This quotation does not include these surcharges, and Seller reserves the right to add these surcharges, if incurred, to this quotation.

**3. TERMS OF PAYMENT:** (a) Subject to Seller's credit approval of Buyer and unless otherwise stated, invoice payment terms are net 30 days from date of invoice. Seller may, in its sole discretion, request payment out of an irrevocable, negotiable Letter of Credit, confirmed by either a major US bank or a Schedule I Canadian bank with Seller's prior approval. The Letter of Credit shall not preclude partial shipments. Unless otherwise agreed to in writing, all payments shall be in United States Dollars, and a pro rata payment shall become due as each shipment is made or upon receipt of invoice for Services provided. If shipment is delayed by Buyer, date of notice of readiness for shipment shall be deemed to be date of shipment for payment purposes. (b) On late payments, the contract price shall, without prejudice to Seller's right to immediate payment, be increased by 1 1/2% per month on the unpaid balance, but not to exceed the maximum permitted by law. (c) If at any time in Seller's judgment Buyer is unable or unwilling to meet the terms specified, Seller may require satisfactory assurance of full or partial payment as a condition to commencing or continuing manufacture or making shipment or performing services, and may, if shipment has been made, recover the goods from the carrier, pending receipt of such assurances. (d) Except for Services performed (i) under a firm fixed price basis or (ii) pursuant to terms of a previously priced existing contract between Seller and Buyer and at the Seller's option, invoices for work performed by Seller shall have added and noted on each invoice a charge of 3% (over and above the price of the work) which is related to Seller's compliance with present and proposed environmental, health, and safety regulations associated with prescribed requirements covering hazardous materials management and employee training, communications, personal protective equipment, documentation and record keeping associated therewith. (e) Upon default in payment the contract price shall be increased by all costs related to collection and by reasonable attorney fees. (f) Should the parties agree to transact in a non-US currency pursuant to this Section (3(a)), all references to specific amounts in United States Dollars in these terms and conditions shall also mean an equivalent value in a non-US currency, as determined by the exchange rate at the time of invoice. (g) CREDIT CARDS: Credit cards will be accepted at the time of order from the purchaser. Credit cards are NOT eligible for any payment discounts or special terms. A customer who chooses to pay for an order more than 3 (three) days after invoicing, is subject to a credit card fee of 2.5% of the total purchase price.

**4. WARRANTY FOR GOODS AND SERVICES:** Seller warrants, to the extent to which any of the same may be applicable, that (a) on the date of shipment the goods are of the kind and quality described herein and are free of non-conformities to the specifications agreed to in writing by the parties, (b) the engineering services performed by it will be performed in accordance with generally accepted professional standards, (c) any specialized tools, equipment and instruments for the use of which a charge is made to the Buyer shall be adequate for the work to be performed and (d) any replacement or other parts furnished by it or any work done by it on the Buyer's equipment or both shall be free of defects in workmanship and materials. This warranty does not apply to goods delivered by Seller but manufactured by others.



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Buyer's exclusive remedy for any failure of the goods or services to conform to any of the applicable warranties shall be to have Seller re-perform services, repair, or replace (at Seller's option) the nonconforming item and any affected part of the goods provided by Seller.

Standard Product Guarantee for Seller Manufactured Products: Seller's obligation to re-perform services or to repair or replace goods shall be in effect for a period of two (2) years from Seller's shipment of the goods. Lamps are excluded from this guarantee.

Product Guarantee for Seller Manufactured Products Certified under FAA Airfield Lighting Equipment Certification Program (ALECP) FAA AC 150/5345-53: FAA Certified LED products (except for obstruction lights) are warranted against electrical defects in design or manufacture of the LED or LED specific circuitry for a period of four (4) years from date of installation per FAA Engineering Brief 67 (applicable edition). FAA Certified products must be installed, interfaced, and powered with and through components certified under the FAA Airfield Lighting Equipment Certification Program (ALECP) FAA AC 150/5345-53 (applicable edition) to be included in this four (4) year warranty. This includes, but is not limited to, interface with components such as base cans, isolation transformers, connectors, wiring, and constant current regulators. FAA Certified products installed, interfaced, and powered with and through system components that are not FAA certified are covered by the two (2) year Standard Product Guarantee stated above.

Spare Parts Guarantee: Seller's obligation to re-perform services or to repair or replace goods shall be in effect for a period of one (1) year from Seller's shipment of the goods. Lamps are excluded from this guarantee.

Refurbished Weather Product Guarantee: Seller's obligation to re-perform services or to repair or replace goods shall be in effect for a period of ninety (90) days from Seller's shipment of the goods.

Software Product Guarantee: Seller warrants that the Systems will substantially conform to the specification for a period of 12 months from the earlier date of Systems' Acceptance or first use of the System ("Warranty Period"). As stated below in "Software Product Warranty Claim Process", the Buyer shall notify the Seller in writing immediately on becoming aware of any deficiencies in the Systems, as a condition to the enforceability of the warranty given in this clause. The Buyer shall provide the Seller with all documentation and information reasonably required for the elimination of faults in the Systems. Seller shall, within a timely manner (in accordance with the Service Level Agreement, if any), correct the deficiencies of the Systems free of charge, provided (i) the deficiencies have arisen within the Warranty Period, and (ii) Seller has been given written notice of same within the Warranty Period. This warranty is a limited warranty and is restricted to the correction of deficiencies, if any, in the Systems.

This warranty does not cover any problems or defects arising from (a) customer's negligence, abuse, or misuse of the Software, (b) unauthorized modifications or alterations to the Software, (c) use of the Software with incompatible hardware, software, or operating systems, and (d) any third-party products, services, or components not provided by the Seller.

Software Product Warranty Claim Process - To make a warranty claim, the Buyer must contact the Seller during the Warranty Period and provide (a) a description of the defect or problem, (b) any available supporting documentation or evidence, (c) the date of Software receipt. The Buyer must cooperate with the Seller to diagnose and resolve any reported problems, which may include submitting additional information, installing patches, or following troubleshooting instructions.

Unless otherwise provided in this Contract, the fees for this Software's license are included in the purchase price of the goods. Any subsequent modifications or enhancements to the Software made by Seller are, at Seller's option, subject to a fee.

Pass-Through Warranties: Seller agrees to pass through to Buyer any warranties given by its third-party vendors in connection with hardware, software, or other products or services used by Seller to provide the products or services to the extent permitted by the terms and conditions of such warranties.

**Except for the obligations expressly undertaken by Seller under this Agreement and the specific warranties contained in this Agreement, Seller makes no representation or warranty that the Systems will achieve any particular result. All other warranties, express or implied, statutory, or otherwise including, without limitation, any warranty for latent defects or warranty as to fitness for a particular purpose are hereby excluded.**

Seller shall correct any failure to conform to any of the applicable foregoing warranties of which it is notified in writing within that period specified. Repaired and replacement parts and repair services shall be warranted for the remainder of the original period of notification set forth above. In the



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case of any other breach of the foregoing warranty, Seller shall furnish engineering services or specialized tools, equipment, and instruments, to the same extent as on the original work. Buyer shall grant Seller access to the goods or services at all reasonable times for Seller to determine any nonconformity in the goods or services. It is understood and agreed that, unless otherwise agreed to in writing by Seller, Seller assumes no responsibility with respect to the suitability of the Buyer's equipment or any latent defects in the same. In no event shall Seller be responsible for providing working access to the defect, including the removal, disassembly, replacement or reinstallation of any equipment, , materials or structures to the extent necessary to permit Seller to perform its warranty obligations or transportation costs to and from the Seller factory or repair facility, or for damage to equipment components or parts resulting in whole or in part from improper maintenance or operation or from their deteriorated condition. Seller shall have the right of disposal of items replaced by it. If Seller is unable or unwilling to repair or replace, or if repair or replacement does not remedy the nonconformity, Seller and Buyer shall negotiate an equitable adjustment in the contract price, which may include a full refund of the contract price for the nonconforming goods or services. All warranty work shall be performed in a single shift straight time basis Monday through Friday. In the event the Buyer requires correction of warranty items on an overtime schedule, the premium portion of such overtime shall be for the Buyer's account.

**THIS IS SELLER'S SOLE GUARANTEE AND WARRANTY WITH RESPECT TO THE GOODS AND SERVICES. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES OTHER THAN THOSE MADE EXPRESSLY HEREIN. ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED.**

Buyer and successors of Buyer are limited to the remedies specified in this article and shall have no others for nonconformity in the goods or services provided hereunder. Buyer agrees that these remedies provide Buyer and its successors with a minimum adequate remedy and are their exclusive remedies, whether Buyer's or its successors' remedies are based on contract, warranty, tort (including negligence), strict liability, indemnity, or any other legal theory, and whether arising out of warranties, representations, instructions, installations, or non-conformities from any cause.

**SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND CONDITIONS WITH REGARD TO THE GOODS AND SERVICES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.**

**5. WEATHER SERVICES:** Weather Services that are required for an unplanned Equipment failure or outage; Buyer shall pay Seller the recited "Unplanned Outage Fee". The "Unplanned Outage Fee" is billed in half-day increments, portal to portal, plus travel costs and expenses. Unplanned outages are defined as any restoration outside of normal or anticipated causes of equipment failure, which outside causes include, but are not limited to, acts of God, weather damage, lightning strikes, vandalism or other damage caused by unauthorized airport personnel or third parties. The "Unplanned Outage Fee" is billed for each day or part thereof that Services are required.

**6. PATENTS:** Seller shall pay reasonable costs and damages finally awarded in any suit against Buyer or its vendees to the extent based upon a finding that the design or construction of the goods as furnished infringes a United States or Canadian patent, as applicable (except infringement occurring as a result of incorporating a design or modification at Buyer's request), provided that Buyer promptly notifies Seller of any charge of infringement, and Seller is given the right at its expense to settle such charge and to defend or control the defense of any suit based upon such charge, including without limitation the selection of legal counsel and experts. Seller shall have no obligation hereunder with respect to claims, suits or proceedings, resulting from or related to, in whole or in part, (a) the use of software or software documentation, (b) compliance with Buyer's specifications, (c) the combination with, or modification of, the goods after delivery by Seller, (d) the use of the goods, or any part thereof, in the practice of a process, or (e) any goods, to the extent the goods were not manufactured by Seller. THIS ARTICLE SETS FORTH SELLER'S ENTIRE LIABILITY WITH RESPECT TO PATENTS.

**7. PERFORMANCE AND DELAYS:** It is the Seller's desire to attempt to accommodate the delivery requirements of its Buyers. When placing an order, Buyers should specify the approximate date materials are required. Seller will make every reasonable effort to comply with the Buyer's requirements. However, Seller does not guarantee dates of shipment or delivery. Shipping schedules given by seller are approximate and are given with the best information available. Seller shall not be liable for any loss or damages as a result of any delay in delivery, including but not limited to losses in the form of liquidated damages. Orders received with a "HOLD" (for release, for approval, etc.) are not processed for manufacture until Buyer gives release. Orders which do not specifically waive submittals are considered "hold for approval of submittals." Estimates of normal shipping time should be interpreted as being from time of release. Timely performance by Seller is contingent upon Buyer's supplying to Seller, when needed, all required technical information and data, including drawing approvals, and all required commercial documentation. If Seller suffers delay in performance due to any cause beyond its reasonable control, the time of performance shall be extended a period of time equal to the period



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of the delay and its consequences. Seller will give to Buyer notice within a reasonable time after Seller becomes aware of any such delay. Any item of the goods on which manufacture or shipment is delayed by Buyer may be placed in storage by Seller for Buyer's account and risk, and Buyer shall pay all charges for storage and other incidental expenses incurred by Seller in the event of delayed shipment.

**8. SHIPMENT, TITLE, RESPONSIBILITY AND RISK OF LOSS:** Unless otherwise agreed in writing by the Seller, Section 7 shall set forth the terms for shipment, title, responsibility, and risk of loss. The term "shipment" shall mean the process of transportation of the goods beginning with delivery to the initial carrier in accordance with the delivery terms of this order. Unless otherwise agreed upon, Seller will select method of transportation, route of shipment, and carrier of choice. Seller will be responsible for claims related to loss or damage if Seller is responsible for transportation cost. The title of the goods shall be dictated first by contract; second by purchase order; and third by any other agreed upon terms documented and agreed upon by the Seller and Buyer. For international shipments, title of the goods shall be dictated first by contract; second by Letter of Credit (if applicable); third by purchase order; and fourth any other agreed upon terms documented and agreed upon by Seller and Buyer. Risk and Responsibility, as they relate to international shipments, shall be dictated by INCO Terms 2010. Seller and Buyer shall agree upon INCO Term 2010 prior to shipment of any kind. All international shipment cost responsibilities associated with Incidences; Return Material Authorizations (RMAs); incorrect order placement; material management errors are to be made by the Management of the Seller and Buyer (e.g., Delivery Duty Paid versus Duty Drawback). Seller shall not be responsible for damage to the goods after having received "in good order" receipts from the carrier and/or receiving warehouse. All claims for loss, damage and delay in transit are to be handled by the paying party of the transportation cost regardless of a domestic or international sale. Claims for shortages or incorrect items must be made in writing to Seller within thirty days after receipt of shipment. Failure to give such notice shall constitute an irrevocable acceptance of the goods. Freight will be allowed to any common-carrier free-delivery point within the Continental United States, excluding Alaska and Hawaii, on shipments exceeding \$3,500 net or more, providing Seller selects the carrier. On shipments to Alaska and Hawaii of \$3,500 net or more, freight will be allowed to the port of departure/lading (sea or air) from the Continental United States. Shipments destined for Alaska or Hawaii will be subject to a prorated transportation cost. Domestic shipments requiring redirection of product not initially know on the purchase order may be subject to a redirect fee that will be passed onto Buyer. Redirect costs are typically \$75-\$125. No "paid by Seller" freight will be allowed for shipments at the Buyer's request under \$3,500 net. For all other domestic shipments less than \$3500, freight terms are FOB factory/Ex-Factory/Ex-Works [EXW] (as that term is commonly used in the United States, meaning that Buyer shall pay all cartage costs from the Seller's factory), unless otherwise agreed by the parties in writing. Seller reserves the right to recognize revenue 30 days after date of notification to the Buyer that purchased material is ready for collection (e.g., EXW).

**9. RETURN of MATERIALS:** Material may be returned for credit only upon the prior authorization of Seller. All materials authorized for return must be sent to Seller freight prepaid. Materials returned to Seller are subject to a 20% restocking charge.

**10. SYSTEM ACCEPTANCE BY CUSTOMER:** Unless otherwise specified, inspection and final acceptance shall be at Seller's facility. Where Buyer has purchased a factory acceptance test, Seller shall verify completion of the combination of equipment, materials, software, and services ("System") or applicable portion thereof, in accordance with the factory acceptance test procedures submitted by Seller. Buyer may elect to witness the procedure by giving Seller reasonable advance notice prior to scheduled shipment. Buyer observation shall be at Buyer's expense. Where Buyer waives observation of the acceptance test, Seller shall certify that the results of the testing are in conformity with the test procedures. Buyer's acceptance shall be deemed to have occurred upon successful completion of such test.

When it is expressly provided that final acceptance shall be at destination, Buyer shall notify Seller in writing of any nonconformity of the System within thirty (30) days of the date of System shipment and shall specify any nonconformity claimed. Seller shall, within a reasonable time, remedy any specified nonconformity at destination in accordance with Seller's warranty obligations set forth in Section 4. If such notice is not received by Seller within the stated time, acceptance shall be considered final as of the thirty-first (31st) day following date of System shipment.

**11. TAXES:** Any applicable duties or sales, use, excise, value-added or similar taxes assessed by the country of origin will be added to the price and invoiced separately to Buyer (unless an acceptable exemption certificate is furnished by Buyer). For international sales, Buyer is responsible for the payment and remittance of all duties or sales, use, excise, value-added or similar taxes assessed by the country of destination. Buyer shall indemnify and hold the Seller harmless against any and all liabilities owed to the tax authority in the country of destination as a result of Buyer not fulfilling its obligations under this section 10, including but not limited to duties, taxes, penalties, interest and reasonable legal, accounting and other advisory fees.



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**12. NONCANCELLATION:** Upon acceptance by Seller, Buyer may not cancel or terminate for convenience, or direct suspension of manufacture, except with Seller's written consent and then only upon terms that will compensate Seller for its engineering, fabrication and purchasing charges and any other costs relating to such cancellation, termination, or suspension, plus a reasonable amount for profit.

**13. LIMITATION OF LIABILITY:** NEITHER SELLER, NOR ITS SUPPLIERS SHALL BE LIABLE, WHETHER IN CONTRACT, WARRANTY, FAILURE OF A REMEDY TO ACHIEVE ITS INTENDED OR ESSENTIAL PURPOSES, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY, FOR LOSS OF USE, REVENUE OR PROFIT, OR FOR COSTS OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE, OR FOR INDIRECT, SPECIAL, LIQUIDATED, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE, OR FOR CLAIMS BY BUYER FOR DAMAGES OF BUYER'S CUSTOMERS. SELLER'S MAXIMUM LIABILITY UNDER THIS CONTRACT SHALL BE THE CONTRACT PRICE. BUYER AND SELLER AGREE THAT THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS ARTICLE ARE SEPARATE AND INDEPENDENT FROM ANY REMEDIES WHICH BUYER MAY HAVE HERE-UNDER AND SHALL BE GIVEN FULL FORCE AND EFFECT WHETHER OR NOT ANY OR ALL SUCH REMEDIES SHALL BE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

**14. GOVERNING LAW AND CONSENT TO JURISDICTION:** Seller and Buyer agree that these Terms and Conditions of Sale are governed by and shall be construed in accordance with the laws of the State of Ohio and the federal laws of the United States of America applicable in Ohio. The parties agree that any dispute in connection with these Terms and Conditions of Sale will be resolved by a Court sitting in Columbus, Ohio. The parties hereby exclude the application of the United Nations Convention on Contracts for the International Sale of Goods to these Terms and Conditions of Sale.

**15. CHOICE OF LANGUAGE:** The parties confirm that it is their express wish that these Terms and Conditions of Sale, as well as and other documents relating to these Terms and Conditions of Sale, including notices, schedules, and authorizations, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté expresse que cette convention, de même que tous les documents s'y rattachant, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement. Las partes confirman que es su deseo expreso que los términos y condiciones de ventas, así como los Documentos relacionados a estos términos y condiciones de ventas, incluyendo avisos, programaciones y autorizaciones, han sido y deberán continuar siendo en el Idioma Ingles.