

AA Portable Power Corporation
dba BatterySpace.com
TERMS AND CONDITIONS OF SALES

1. LIMITED WARRANTY: Seller warrants that its products furnished under these terms and conditions of sale (the “Products” or “PRODUCTS”) will conform to and perform in accordance with Seller’s published specifications for such Products as in effect on the date of shipment(within the deviations specified therein) for a period of THREE (3) MONTHS from such date(the “Warranty Period”).
2. SELLER’S SOLE LIABILITY AND BUYER’S SOLE AND EXCLUSIVE REMEDY UNDER THE EXPRESS WARRANTY STATED IN THIS SECTION SHALL BE REPAIR OR REPLACEMENT OF ANY PRODUCT UNDER WARRANTY WHICH SELLER REASONABLY FINDS TO BE DEFECTIVE. BUYER SHALL NOTIFY SELLER IN WRITING OF THE DEFECTIVE PRODUCT AND TYPE OF DEFECT PROMPTLY UPON BUYER’S DISCOVERY OF ANY DEFECTIVE PRODUCT WITHIN THE WARRANTY PERIOD. ALL DEFECTIVE PRODUCTS SHALL BE RETURNED TO SELLER, FREIGHT PREPAID, AND RECEIVED BY SELLER NO LATER THAN TEN (10) DAYS AFTER THE EXPIRATION OF THE WARRANTY PERIOD.
3. NO IMPLIED WARRANTIES, REPRESENTATIONS OR CONDITIONS. THE REPRESENTATIONS AND WARRANTIES STATED IN SECTION 1 ABOVE ARE IN LEU OF ALL OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS PERTAINING TO THE PRODUCTS, WHETHER WRITTEN, ORAL, STATUTORY OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF CONDITIONS OR MERCHANTABILITY, MERCHANTABILITY OF FITNESS FOR A PARTICULAR PURPOSE OR FOR ALL AND ANY OTHER PURPOSES.

THIS WARRANTY SHALL NOT APPLY TO ANY DEFECT, PRODUCT DAMAGE TO PROPERTY OR EQUIPMENT OR MERCHANDISE OR EQUIPMENT OR MERCHANDISE PERFORMANCE FAILURE DUE TO OR RESULTING FROM ANY MISAPPLICATION, IMPROPER INSTALLATION, IMPROPER OPERATION, ABUSE, CONTAMINATION, WHETHER BY BUYER OR ITS CUSTOMERS OF THE PRODUCTS, AND SELLER SHALL HAVE NO LIABILITY OF ANY KIND FOR THE FAILURE OF ANY EQUIPMENT OR ANY ITEM IN WHICH THE SELLERS PRODUCT WAS INCORPORATED INTO OR USED WITH.

THE WARRANTY IN SECTION 1 SHALL NOT APPLY TO ANY PRODUCTS MANUFACTURED BY SELLER ACCORDING TO OR PURSUANT TO BUYER'S DESIGNATED DESIGNS OR SPECIFICATIONS AND SUCH PRODUCTS SHALL BE SOLD TO BUYER ON AN "AS IS" BASIS WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED.

4. LIMITATION OF WARRANTIES, REMEDIES AND LIABILITY: SELLER'S TOTAL LIABILITY FOR ANY CAUSE OF ACTION, IN ANY EVENT, SHALL NOT EXCEED THE PRICE OF THE SPECIFIC PRODUCTS PURCHASED AND SELLER SHALL NOT BE LIABLE FOR, AND BUYER WAIVES ALL CLAIMS FOR, ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WHETHER BASED UPON A TORT OR BREACH OF CONTRACT AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEAABLE AND WHETHER OR NOT SELLER HAD BEEN ADVISED OR NOTIFIED OF ANY SUCH POSSIBLE DAMAGE OR LOSS. SELLER SHALL NOT BE LIABLE TO BUYER FOR BUYER'S OR USER'S IMPROPER HANDLING, STORAGE, TRANSPORTATION, OR USE OF THE PRODUCTS. SELLER SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY TO PERSON OR PROPERTY RESULTING FROM ANY UNAUTHORIZED MODIFICATION OF THE PRODUCT OR BUYER'S USE OF THE PRODUCT IN COMBINATION WITH OTHER SUBSTANCES OR IN ANY MANUFACTURING PROCESS.
5. PERIOD OF LIMITATIONS: Subject to the WARRANTY PERIOD described above, any and all claims for breach of contract, including breach of warranty, must be made in writing by the Buyer within 30 days after the date that cause of action has first occurred. Failure to make such claim should be conclusively deemed as a waiver of any rights or claims under or pursuant to warranty.
6. CLAIMS: Buyer shall test and inspect the Products for compliance with this contract within a reasonable time after each shipment, which in any event shall not exceed forty-five (45) days. If Buyer fails to notify Seller in writing within forty-five (45) days after receipt of the Products, and before any part of the goods (except for a reasonable number of Products for testing purposes) have been changed from its original condition, that the Products are defective in any respect or any shipment is short of the number of Products stated in the accompanying invoice and packing list, then Buyer waives any rights or claims against Seller for any claims against Seller regarding the Products including, without limitation, that Products are defective, fail to

conform to Seller's written specifications or the number of Products actually delivered. Seller's invoice concerning the weights, volumes, size and taxes established in good faith will govern unless Buyer has made a proper claim to Seller within the said forty-five day inspection period.

7. TITLE AND RISK OF LOSS: Products shall be shipped F.O.B. Richmond, CA, and shall be deemed delivered to Buyer when delivered to the first carrier or transportation company at the shipping point. Unless otherwise agreed in writing by Seller, all the transportation charges and expense shall be paid by Buyer, including the cost any insurance against loss or damage in transit which seller may obtain.
8. DELIVERIES: No shipment shall be deemed late if made to the first transportation carrier within ten (10) days after specified date thereof, and no delivery shall be deemed late if made with sixty(60) days after specified date thereof. Seller shall not be liable to Buyer for damages resulting from any delay in delivery of the Products after delivery specified herein unless time of delivery is expressly stated herein to be of the essence.
9. TERMS OF PAYMENT: Invoices will be issued upon shipment and payment shall be due in full within thirty (30) days from the invoice date unless the invoice indicates another payment such as Cash on Delivery or COD or a longer or shorter payment tem. Each shipment shall be considered a separate and independent transaction and payment for each shipment shall be due accordingly. Seller reserves the right to change the amount of or withdraw any credit extended to Buyer.
10. BUYER CREDIT: Credit terms extended to Buyer by Seller may be decreased, canceled, or limited by Seller, both as to time and amount, at any time without notice, and the price of any part of the goods deliverable under this contract shall, at Seller's option, be payable in cash before shipment or on offer of delivery should Seller so demand. If Buyer fails to make any payment when due, or otherwise fails to perform any obligation under any contract between the parties, Seller may defer further shipment until the default is remedied or may treat the default as final refusal of Buyer to accept further shipment hereunder.

Interest Charge: Amounts not paid when due shall be subject to interest at the rate of one and one-half percent (1 1/2%) per month or, if less, the maximum rate permitted by law.

11. ATTORNEY'S FEE: In the event of default in payment of the purchase price or any part thereof for the Products, Buyer agrees to pay Seller's expenses, including reasonable attorney's fees and expenses, incurred by Seller in enforcing payment

thereof ,including all expenses incurred in connection with any arbitration or judicial proceeding.

12. INSOLVENCY: If Buyer makes an assignment or trust for benefit of creditors, becomes insolvent or unable to pay Buyer's debts as they mature, or proceedings are commenced by or against Buyer by reason of alleged bankruptcy, insolvency, or other financial embarrassment or involving appointment of a receiver,(1) Buyer shall not accept delivery of any goods;(2)title to the goods shall remain in Seller or Seller may rescind transfer of title which has passed to Buyer;(3)Buyer shall, at Seller's request, return all or any part of the goods to Seller freight prepaid;(4)Seller may take possession of any Products or goods in transit to Seller; and (5) Seller may wholly or partly terminate this contract by mailing written notice to Buyer.
13. CONTROLLING LAW, VENUE AND JURISDICTION: This Agreement is made under and shall be governed by and construed under the laws of the State of California, and controlling U.S. federal law, and the choice of law rules of any jurisdiction shall not apply. The parties agree that any action shall be brought in the United States District Court for the Northern District of California or the California Superior Court for the County of Contra Costa, as applicable, and the parties hereby submit exclusively to the personal jurisdiction and venue of these courts. The parties hereto expressly exclude any application of the Convention for the International Sale of Goods to the governance and interpretation of this Agreement.
14. ENTIRE AGREEMENT: This constitutes the entire agreement of the parties and supersedes all prior negotiations, proposals, agreements and understandings, whether oral or written, relating to the products to be purchased hereunder or otherwise relating to the subject matter of the Agreement. Any representation, warranty, rescission, waiver or other change in this Agreement shall not be binding on Seller unless agreed to in writing by Seller's authorized representative. The invalidity or unenforceability of any provisions herein shall be severed from this agreement without affecting the remaining provisions of this agreement.
15. GENERAL: If the products purchased from Seller are to be used in the performance of a U.S. government contract or subcontract, no government requirements or regulations shall be binding upon Seller unless specifically agreed to by Seller in writing. Failure or delay on the part of either party to exercise any right, power, privilege or remedy herein shall not constitute a waiver thereof.