

Q-Vio TERMS AND CONDITIONS

All orders with Q-Vio LLC are subject to the following Terms and Conditions:

1. PAYMENT. Terms of payment are net thirty (30) days from the invoice date, unless otherwise set forth on the face hereof. Interest will be assessed by Q-Vio LLC on any unpaid and delinquent amounts as set forth in Section 3 hereof or elsewhere in these Terms and Conditions.

2. TAXES AND CHARGES. Except as otherwise set forth on the face hereof, prices are FOB Q-Vio's facility. Q-Vio's prices are exclusive of (i) all local, city, state and federal sales, use, excise and similar taxes, (ii) freight or handling charges and (iii) any other charges or payments. Accordingly, all such taxes, charges, and payments shall be the sole responsibility of Customer.

3. OVERDUE AMOUNTS. All sums due from Customer to Q-Vio shall accrue interest from the date due and until such sums are paid in full at the rate equal to the lesser of fifteen percent (15%) per annum or the maximum rate allowed by applicable law. Customer shall be responsible and liable to Q-Vio for all reasonable costs and expenses incurred in connection with the collection of any sums owing by Customer to Q-Vio including, without limitation, court costs and attorney's fees (whether or not suit is brought and at trial, appellate and post-judgment levels). Notwithstanding any prior commitments or agreements, whether written or oral, Q-Vio shall have no obligation to make any shipments and/or deliveries to Customer while Customer is in default of any of its obligations to Q-Vio.

4. WARRANTIES. With respect solely to products which are manufactured, fabricated or assembled by Q-Vio, or products which Q-Vio has modified, Q-Vio warrants to the Customer and to no others, that the products shall be free from defects in Q-Vio's workmanship for a period of 1 year after the date of delivery of the products to such Customer. Customer's exclusive remedy under the foregoing warranty shall be, at Q-Vio's election, (a) refund of Customer's purchase price for such products (without interest), (b) repair by Q-Vio or its designee(s) of any products found to be defective in violation of the foregoing warranty or (c) replacement of any such product. With respect to products which are not manufactured, fabricated or assembled by Q-Vio, and products which are not modified by Q-Vio, the warranty, if any, delivered to Q-Vio by the manufacturer or other supplier thereof, to the extent assignable, is assigned by Q-Vio to Customer, and shall be Customer's sole warranty with respect thereto as if Customer received the products on the date such product was received by Q-Vio. Q-Vio makes no representation or warranty as to whether any warranty from any supplier is assignable. **EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, BY Q-VIO OR ANY PERSON WHO IS AN AGENT, EMPLOYEE OR OTHER REPRESENTATIVE OR AFFILIATE OF Q-VIO, WITH RESPECT TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS, THEIR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WITH RESPECT TO ANY OTHER MATTER RELATING TO ANY PRODUCTS.** Q-Vio assumes no responsibility or liability whatsoever for manufacturer's or supplier's product specifications or the performance or adequacy of any design, specification or program provided to Q-Vio by or on behalf of the Customer or by or on behalf of the manufacturer or supplier. Use of the Customer's part number on the face hereof or on the face of any other document, or on any of the products, is for convenience only and does not constitute any representation by Q-Vio with respect to the performance specifications or fitness of the products for any particular purpose. **CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS SET FORTH HEREIN, NEITHER Q-VIO NOR ANY OTHER PERSON HAS MADE, AND CUSTOMER HAS NOT RELIED UPON, ANY EXPRESS OR OTHER WARRANTY OR REPRESENTATION (INCLUDING WITHOUT LIMITATION, ADVERTISING MATERIALS, BROCHURES OR OTHER DESCRIPTIVE LITERATURE) CONCERNING ANY PRODUCTS.**

5. SOFTWARE WARRANTIES AND REQUIREMENTS. Any software included in or related to the products has been supplied by the manufacturer or Customer and Q-VIO MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT THERETO, AND SHALL HAVE NO LIABILITY IN CONNECTION THEREWITH. Customer is solely responsible for complying with manufacturer's or other requirements with regard to proprietary and similar rights in and to such software (including any requirement to enter into separate license agreement and prohibitions against duplicating and/or disclosing the same) and Customer shall indemnify Q-Vio against, and hold Q-Vio harmless from, any and all damages, liabilities, losses, costs and expenses, including attorneys' fees (whether or not suit is brought and at every tribunal level including appeals and any enforcement proceedings), relating to any claim or lawsuit or other proceedings, or threatened lawsuit or proceedings, arising out of breach or purported breach of such requirements.

6. ENVIRONMENTAL WARRANTIES. Any information provided to Customer by Q-Vio relating to the lead content or presence of other environmentally sensitive materials in the products or the products' compliance with RoHS (Restriction of Hazardous Substances) regulations or other environmental laws, does not represent advice of any kind, including legal or operational advice, and Q-VIO MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO SUCH INFORMATION, INCLUDING THE ACCURACY THEREOF, AND SHALL HAVE NO LIABILITY IN CONNECTION THEREWITH. Q-Vio has not done any independent verification nor does it have the ability to confirm the accuracy or reliability of any information relating to environmental matters received from the manufacturers of the products or any other sources. To the extent that Q-Vio has reformatted information provided by the manufacturers of the products or any other sources to accommodate a Customer's request, Q-Vio cannot guarantee that such information was reformatted accurately. Before acting on any information provided by Q-Vio regarding the lead content or presence of other environmentally sensitive materials in the products or the products' compliance with RoHS regulations or other environmental laws, Customer will have to verify the accuracy of the information with the manufacturer of the products.

7. SHIPMENT. All products are shipped at Customer's risk, and Q-Vio's responsibility for damage to products ceases when the products are delivered at Q-Vio's facility to the carrier, to Customer or Customer's agent, whichever occurs earliest ("Delivery"). Customer is responsible for storage charges in the event that the products are held by Q-Vio at the request of Customer pending shipping instructions. In the absence of instructions as to shipping, Q-Vio may select a carrier. In all circumstances, such carrier shall be the agent for Customer only and Q-Vio shall not have any liability or obligations with regard to such shipment(s).

8. INSTALLATION. Customer shall be solely responsible for installation and operation of the products covered hereby including, without limitation, the obtaining of all permits, licenses or certificates required for installation or the use of such products.

9. TITLE TO PRODUCTS AND SECURITY INTEREST. Title to the products sold hereunder will be deemed to pass to Customer upon Delivery. However, Customer hereby grants to Q-Vio and agrees that Q-Vio shall retain, a purchase money Security Interest in all products sold by Q-Vio to Customer, and to all products now or hereafter acquired by Customer and to any proceeds thereof until the purchase price and any other charges due to Q-Vio shall have been paid in full. Customer agrees to execute any financing statements or other documents as Q-Vio may request in order to protect and/or perfect Q-Vio's security interest. Additionally, Q-Vio is hereby granted the right to execute and file any financing statements or other documents as Q-Vio, in its sole discretion, deems appropriate in order to protect and/or perfect Q-Vio's security interest. Customer also grants Q-Vio the right to execute and/or file any financing statements on its own without the Customer's signature or separate written consent. Upon any default by Customer hereunder, Q-Vio shall have all rights and remedies of a secured party under the Uniform Commercial Code, which rights and remedies shall be cumulative and not exclusive.

10. CUSTOMER CREDIT. Q-Vio reserves the right to modify terms prior to shipment, require payment in advance, or delay or cancel any shipment by reason of Customer's creditworthiness or lack thereof.

11. SUPPLIER PRICE INCREASES. Prices are subject to change upon thirty (30) days notice in response to price increases by suppliers of Q-Vio. In such event, Customer may, without penalty, cancel such order in writing within such thirty (30) day period.

12. RESCHEDULING OR RECONFIGURING. Should Customer reschedule or reconfigure its order, such rescheduling or reconfiguring shall be subject to a charge of fifteen percent (15%) of the charge for the initial order. The parties acknowledge that it would be difficult to ascertain the damages incurred by Q-Vio as a result of such rescheduling and/or reconfiguring and therefore agree that the aforesaid charge shall be deemed to be liquidated damages and compensation for the costs incurred by Q-Vio in connection with the procuring, filling, rescheduling and/or reconfiguring and in no way shall said charge be deemed to be a penalty.

13. CANCELLATIONS AND RETURNS. Without in any way being deemed to grant Customer any right of cancellation or return, in the event that Q-Vio, in Q-Vio's sole and absolute discretion, shall agree in writing to accept a cancellation and/or a return of any particular products sold, such cancellation and/or return shall be subject to a restocking charge of fifteen percent (15%) of the charge for the original order. The parties acknowledge that it would be difficult to ascertain the damages incurred by Q-Vio as a result of such a cancellation and/or return and therefore agree that the aforesaid restocking charge shall be deemed to be liquidated damages and compensation for the costs incurred by Q-Vio in connection with said cancellation and/or return and in no way shall said restocking charge be deemed to be a penalty.

14. CLAIMS. All products shall be deemed accepted by Customer unless, within ten (10) days from Delivery, Customer shall notify Q-Vio writing that such products are damaged or defective. Any claims for shortages must be made to Q-Vio in writing within ten (10) days from Delivery. All claims and returns must be submitted to the facility indicated by Q-Vio. All returns must be authorized by Q-Vio and no returns may be made without Q-Vio's standard "Return Authorization Form."

15. INTENDED USES. The products to be supplied hereunder shall not be used in nuclear facilities or systems, life support systems, human implantation or any other applications in which the failure or malfunction of the products could create a situation in which personal injury or death is likely to occur. Customer represents and warrants that this order does not involve any type of experimental, developmental or research work as one of its purposes. Any use of the products in violation of this section is at Customer's sole risk, and Customer agrees to indemnify and defend Q-Vio against, and agrees to hold Q-Vio harmless from, any and all damages, liabilities, losses, costs and expenses, including attorneys' fees (whether or not suit is brought and at every tribunal level including appeals and any enforcement proceedings), relating to any claim, lawsuit or other proceeding or threatened lawsuit or proceeding relating to or arising out of such use or sale.

16. INTELLECTUAL PROPERTY/PROPRIETARY RIGHTS. Q-Vio shall have no liability or obligation to Customer or any other party in connection with any claims of infringement of any patent, trademark, copyright, trade secret or other proprietary right or information. Customer agrees to indemnify and defend All American against, and hold All American harmless from, any and all damages, liabilities, losses, costs and expenses, including attorneys' fees (whether or not suit is brought and at every tribunal level including appeals and any enforcement proceedings) relating to any claim, lawsuit or other proceeding or threatened lawsuit or proceeding in which there is any claim that Customer's use, modification or integration of any products violates the intellectual property rights (including, without limitation, any patent rights) of any entity or person.

17. LIMITATION OF LIABILITY. Except as specifically set forth herein, Q-Vio shall have no liability or obligation to Customer or any other person or entity for any claim, loss, damage or expense of any kind caused in whole or in part, directly or indirectly, by: the inadequacy of any products for their purposes, or; any deficiency or defect in any products whether or not covered by any warranty, or; the use or performance, or failure to perform, of any products, or; any interruption or loss of service, or; any delay in shipment(s). In no event shall Q-Vio have any liability for any special, direct (except as expressly set forth to the contrary in these Terms and Conditions), indirect, incidental or consequential damages, however caused and including, without limitation, personal injury or loss of business or profit, whether or not Customer shall have informed Q-Vio of the possibility or likelihood of such or other damages. The foregoing limitation on liability shall also apply to any claims that Customer may have against any supplier of Q-Vio.

18. INDEMNIFICATION. Customer agrees to indemnify and defend against, and hold Q-Vio harmless from, any and all damages, liabilities, losses, costs and expenses (including without limitation, attorneys' fees whether or not suit is brought and at every tribunal level including appeals and any enforcement proceedings), relating to any claims, lawsuit or other proceeding or threatened lawsuit or proceeding arising out of any claim by any party (including, without limitation, claims by Customer's customers, clients, insurers, employees, contractors, subcontractors or agents or their respective employees and worker's compensation insurers, or any end-users) for personal injuries or death or damage to property (tangible or intangible, including patents or other intellectual property rights) arising out of the existence or use of the products or any defect in the products, whether or not such liability, loss, cost, damage or claim is occasioned in whole or in part by any actual or alleged act or omission or negligence of Q-Vio, its representatives, employees, agents, subcontractors, vendors or suppliers or by any defect in the products whether or not it is contended that Q-Vio contributed thereto in whole or in part or was responsible therefore by reason of a non-delegable duty.

19. GOVERNMENT CONTRACTS. In the event that Customer's order was placed under a contract with any governmental body, agency or instrumentality (the "Government"), Q-Vio shall not be bound by, nor be obligated to comply with, any contract provisions, statutes or regulations (including without limitation, Defense Acquisition Regulations) applicable to such contract and the goods or services to be provided hereunder unless, pursuant to law or regulation, Q-Vio must be bound and Customer has, at the time of order placement, placed Q-Vio on notice in writing other than by terms printed on order forms or other pre-printed forms. Any audit or inspection shall be conducted with the understanding that except as otherwise required by statute or regulation, all rights in technical data owned by Q-Vio are hereby reserved. No provisions of Customer's contract with the Government will be binding on Q-Vio except as expressly set forth in this section.

20. IMPORTED/EXPORTED PRODUCTS. Any or all of the products may have been imported. Country of origin information is provided to Q-Vio by its suppliers only and is, where applicable, located on the products themselves or the supplier's innermost packaging thereof. Any or all of the products may be subject to export or resale restrictions or regulations, and Customer acknowledges that Customer is familiar with, and will comply with, such regulations and/or restrictions. If applicable, Customer is solely responsible for complying with any and all such regulations and for restrictions and shall indemnify Q-Vio against, and hold Q-Vio harmless from, any and all damages, liabilities, costs and expenses, including attorneys' fees at every tribunal level (including appeals), relating to any lawsuit or other proceeding or threatened lawsuit or proceeding arising out of a breach or purported breach of such regulations and/or restrictions.

21. COMPLETE AGREEMENT. THIS DOCUMENT REFLECTS THE ENTIRETY OF THE AGREEMENT BETWEEN Q-VIO AND THE CUSTOMER WITH RESPECT TO THE PURCHASE AND SALE OF PRODUCTS COVERED HEREBY, AND SUPERCEDES ANY PRIOR AGREEMENTS BETWEEN THE PARTIES. No representations, warranties, understandings or agreements have been made or relied upon other than as set forth herein.

22. APPLICABLE TERMS AND CONDITIONS. All sales are made only upon the terms and conditions set forth herein and on the face hereof. This document, and not any purchase order or other document of Customer, shall be deemed an offer to counter-offer and is a rejection of any inconsistent prior terms or conditions submitted by Customer. Customer, by accepting the products, shall be deemed to have assented to the terms and conditions set forth on this document, notwithstanding any terms contained in any prior or later communication from Customer or modifications by Customer of this document and whether or not Q-Vio shall specifically or expressly object to any such terms. Q-Vio's failure to object to any provision of any subsequent document, communication or act of Customer shall not be deemed a waiver of any of the terms listed hereof. Any changes in the terms and conditions set forth herein must be specifically agreed to in writing by a duly authorized officer of Q-Vio before becoming binding on Q-Vio.

23. DEFINITION. "Q-Vio" and "Q-Vio, LLC" as that term is used herein, shall mean the seller as identified on the face hereof. All disclaimers and limitations of liability of Q-Vio and all benefits running in favor of Q-Vio, as set forth herein, shall be deemed to apply to and run to the benefit of Q-Vio and all subsidiaries, affiliates and parent corporations of Q-Vio and to the subsidiaries and affiliates of the parent corporation of Q-Vio, and of all employees, agents and representatives of all such companies. As used herein, the term "product" or "products" shall mean any products, goods or services sold from time to time by Q-Vio to Customer. As used herein, the term "Customer" shall mean the person, company or other entity that purchases or uses any products, goods or services and any person, company or entities affiliated thereto or claiming by or through said person, company or other entity.

24. NO WAIVER. A waiver of any breach or violation of any term, provision or covenant herein contained shall not be deemed a continuing waiver or a waiver of any future or past breach or violation. No oral waiver shall be binding.

25. FORCE MAJEURE. Q-Vio shall not be liable for any failure or delay in the performance of orders or contracts or in the delivery or shipment of products, or for any damages (whether special, ordinary, consequential, incidental or otherwise) suffered by Customer or Customer's customers by reason of failure or delay that is directly or indirectly caused by, or in any manner arises from fires, floods, accidents, civil unrest, acts of God, war, government interference or embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays, delays in delivery by Q-Vio suppliers or any other cause or causes (whether or not similar in nature to any of those here and before specified and whether or not in or under the control of Q-Vio). Q-Vio reserves the right to cancel, without liability, any order the shipment of which is or may be delayed more than ninety (90) days by reason of any cause or causes beyond its control. Q-Vio reserves the right, in its sole discretion, to allocate among customers or potential customers, or defer or delay the shipment of any product which is in short supply.

26. PARTIAL VALIDITY. If any term, provision, covenant or condition of this Agreement or the application thereof to any person or circumstance is deemed invalid or unenforceable, the remainder of this Agreement or the application of such term provision, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and each other term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If any term or provision herein is subject to more than one interpretation, one of which would render it valid and one of which would render it void or unenforceable, then said term or provision shall be given the interpretation that would render it valid and enforceable.

27. CHOICE OF LAW AND VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

28. HEADINGS. The section headings contained in this Agreement are for ease of reference only and shall not affect the construction or interpretation of the provisions.

Certificate of Compliance: We certify that the material, parts and assemblies shipped to you against the above Purchase Order have been inspected and accepted in compliance with the requirements of manufacturer and/or military specification. All records of inspection are on file and available for review.

Quality Control: _____