

DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY DECLARATION

1.0 Warranty

- 1.1 ACD warrants for a period of thirty days (30) from the date of manufacture of the Product, that (i) the Product will conform to the specifications applicable to such Product at the time of its manufacture, which are furnished in writing by Customer and accepted by ACD; and (ii) such product will be of good material (supplied by ACD) and be free from defects in workmanship.
- 1.2 CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND ACD'S ENTIRE LIABILITY FOR BREACH OF WARRANTY IS AS STATED IN THIS SECTION:
- 1.3 In the event that any Product manufactured shall not be in conformity with the foregoing warranties, ACD shall, at ACD's option, either credit Customer for any such nonconformity (not to exceed the purchase price paid by Customer for such Product and within the time period consistent with Customer Payment terms contained herein), or , at ACD's expense, replace, repair or correct such Product. Customer agrees to pay a screening fee and other associated fees, including transportation, for assemblies submitted for warranty work that are not packed appropriately, do not duplicate the alleged failure when tested by ACD, or are to be tested against a later version test software than was used at the time of manufacture.
- 1.4 ACD shall have no liability or responsibility for any costs, losses or damages due to defective or failed Product claims to the extent that the claims result from: (a) ACD's compliance with Customer's supplied Specifications and/or manufacturing processes, (b) inadequate operating environment, accident, disaster, neglect, abuse, or misuse, (c) design flaws or design parameters exceeding or violating component specifications, (d) external or environmental factors after shipment from ACD, (e) follow-on handling, processing, or manufacturing of Products after shipment of the Product from ACD, (f) repair, attempted repair, modification, or alteration of the Product by a party other than ACD, (g) electrostatic discharge damage (not caused by ACD), and (h) defects related to components provided by third party suppliers selected by Customer, which defects ACD could not reasonably detect, prevent or control, and (i) Products for which Customer has not provided functional or other tests to adequately diagnose failures.
- 1.5 ACD makes NO WARRANTY as to software that is supplied as an "AS IS" basis. Likewise, ACD makes NO WARRANTY as to prototypes, pre-production units, or units shipped at Customer's request with less than the testing provided for in the work order for production units.
- 1.6 ACD provides NO WARRANTY that the product(s) is fit for the life support market or to be used in life support systems, critical care applications, human implantation, commercial aviation, nuclear facilities or systems or any other applications where product failure could lead to injury to persons, loss of life, or catastrophic property damage.
- 1.7 THE WARRANTIES CONTAINED IN THIS SECTION ARE IN LIEU OF, AND ACD EXPRESSLY DISCLAIMS AND CUSTOMER WAIVES ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR USE.