

## **TERMS AND CONDITIONS OF SALE FOR connect.granitenet.com**

The following terms and conditions, the "Agreement," will apply to all sales orders initiated by Customers, (each a "Customer") and completed through connect.granitenet.com, unless otherwise agreed to in writing by Granite Telecommunications, LLC ("Granite"). Granite reserves the right to revise these terms and conditions at any time.

1. **ACCEPTANCE OF ORDER** - By placing an order on connect.granitenet.com, Customer waives the right to rescind such offer. All orders are subject to approval and acceptance by Granite. Granite reserves the right to accept or reject any order, for any reason, at any time.

2. **PRICES** – The prices assessed for any order shall be those in effect at the time Granite accepts the applicable order from Customer. Prices as listed on connect.granitenet.com do not include shipping, applicable taxes, and/or duties, and are subject to correction or change without notice.

### **3. SHIPPING POLICIES -**

(a) All shipments will be made F.O.B. shipping point, for the avoidance of doubt, with regard to the goods in connection with a sale on a connect.granite.com, title and risk of loss pass to Customer upon Granite's tender of shipment to the carrier.

(b) The price of shipping is determined by the shipping method selected by Customer, the weight of the goods, as well as the distance between Customer's shipping address and Granite's shipping center.

(c) Customer may select expedited shipping where available, however additional charges shall apply. Any charges incurred for the shipment of hazardous materials or other special handling shall be paid by Customer. Orders to international destinations or to Puerto Rico or other US territories will not be processed. Connect.granitenet.com only accepts orders for shipments within the US. Granite does not ship to PO Box addresses or APO/FPO boxes.

(d) Orders are processed on business days, meaning Monday through Friday, excluding holidays. To qualify for expedited shipping, Granite must receive Customer's order on a business day, before 4:00 PM Eastern Time). Orders placed on Saturdays, Sundays, and holidays will be processed on the following business day. For additional information with regard to Shipping Policies, please call Granite's Customer Service Department at 1-877-745-5183.

### **4. RETURN OF GOODS -**

(a) Returns must be received by Granite within sixty (60) days from the date of purchase. Returned goods must be authorized in advance by Granite (Granite will provide an RMA (Return Materials Authorization) number. Returns must be accompanied by identifying documentation including RMA number, Customer name, order number and details with regard to the contents of the return goods. Returned goods must be in their original packaging, unused, undamaged and in saleable condition. Customer is responsible for the method and cost of return to Granite. All returns shall ship F.O.B. Granite, for the avoidance of doubt, title and risk of loss shall remain with Customer until such goods are delivered to and arrive at Granite. When the return is received, inspected and accepted by Granite, the appropriate credit will be issued to Customer. A deduction may be made from credits issued to cover cost of handling, cancellation and/or restocking fees. Customer agrees that any credit balance(s) issued by Granite will be available to Customer account for no longer than one (1) year from its issuance. IF CUSTOMER HAS NOT APPLIED FOR OR REQUESTED THE CREDIT WITHIN ONE (1) YEAR, ANY REMAINING CREDIT BALANCE(S) WILL BE SUBJECT TO CANCELLATION, AND GRANITE SHALL HAVE NO FURTHER LIABILITY.

(b) If Customer receives damaged, defective, or incorrect goods, Customer must notify Granite's Customer Service Department within fifteen (15) days of receipt. Contact Granite's Customer Service Department at 1-877-745-5183 or [partnerrelations@granitenet.com](mailto:partnerrelations@granitenet.com) to request an RMA label. A replacement shipment will be processed upon Granite's receipt of the returned goods. Claims for incomplete orders or goods lost in transit must be initiated by Customer, in writing, within fifteen (15) days of order fulfillment.

5. **TAXES** - Prices shown do not include sales, use, or other taxes imposed on the sale of goods. Applicable taxes, if any, will be identified on the invoice. Customer accepts payment obligations for and agrees to reimburse Granite for any applicable tax as assessed. Customers who have tax-exempt status must provide the appropriate documentation prior to order or be subject to applicable taxes. All certificates must be reviewed and approved by Granite prior to implementation of tax-exempt status.

6. **DELAY IN DELIVERY** - Granite is not responsible for delays in delivery due to Customer, carrier or any other third party or other circumstances beyond Granite's reasonable control. **In no case shall Granite be liable for any special,**

**incidental, direct, indirect, consequential, punitive, exemplary or special damages as a result of such delay in delivery.**

**7. WARRANTIES –**

(a) By placing an order on connect.granitenet.com, Customer represents and warrants they have full right, power and authority to enter this transaction.

(b) ANY DESCRIPTION OF THE GOODS CONTAINED ON ANY GRANITE WEBSITE DESCRIPTION, QUOTATION, PURCHASE ORDER, ORDER ACKNOWLEDGEMENT, BILL OF LADING OR SALES INVOICE IS FOR THE SOLE PURPOSE OF IDENTIFYING THEM, AND DOES NOT CONSTITUTE A WARRANTY THAT THE GOODS SHALL CONFORM TO THAT DESCRIPTION. GRANITE MAKES NO WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, OR OTHERWISE (INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT) WITH RESPECT TO ANY GOODS SOLD BY GRANITE TO CUSTOMER, AND GRANITE HEREBY DISCLAIMS ALL SUCH WARRANTIES. For the avoidance of doubt, the only warranties for Granite-provided goods are those which may be provided by the manufacturer. UNLESS OTHERWISE AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF GRANITE, PRODUCTS SOLD HEREUNDER ARE NOT INTENDED FOR USE IN OR IN CONNECTION WITH (1) ANY SAFETY APPLICATION OR THE CONTAINMENT AREA OF A NUCLEAR FACILITY, OR (2) A HEALTHCARE APPLICATION, WHERE THE GOODS HAVE POTENTIAL FOR DIRECT PATIENT CONTACT OR WHERE A SIX (6) FOOT CLEARANCE FROM A PATIENT CANNOT BE MAINTAINED AT ALL TIMES.

**8. LIMITATION OF LIABILITY** - Customer acknowledges that Granite is a distributor and not the manufacturer or packager. To the maximum extent permitted by law, Customer's remedies under this agreement are limited to those remedies as provided by the manufacturer.

(a) A PARTY'S ENTIRE LIABILITY, AND THE OTHER PARTY'S EXCLUSIVE MONETARY REMEDIES, FOR ANY DAMAGES CAUSED BY GOODS OR FOR OTHER CLAIMS ARISING IN CONNECTION WITH THE GOODS OR OBLIGATIONS OF GRANITE UNDER THIS AGREEMENT SHALL BE AS SET FORTH BELOW:

- i. FOR BODILY INJURY OR DEATH TO ANY PERSON, OR DAMAGE TO REAL PROPERTY OR TANGIBLE PROPERTY NEGLIGENTLY CAUSED BY A PARTY OR ARISING OUT OF A PARTY'S WILLFUL ACTS OR OMISSIONS, OR, THE OTHER PARTY'S RIGHT TO PROVEN DIRECT DAMAGES; AND,
- ii. FOR LOSSES, DAMAGES, AND CLAIMS ARISING IN CONNECTION THE GOODS INCLUDING, BUT NOT LIMITED TO, FAULTY, DEFECTIVE OR NON\_CONFORMING GOODS, GRANITE'S TOTAL LIABILITY SHALL BE LIMITED TO REFUND, REPAIR OR REPLACEMENT OF THE GOODS, AS DETERMINED BY GRANITE IN ITS REASONABLE DISCRETION; AND,
- iii. FOR DAMAGES OTHER THAN THOSE SET FORTH ABOVE AND NOT OTHERWISE EXCLUDED UNDER THIS AGREEMENT, EACH PARTY'S LIABILITY SHALL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED THE LESSER OF (I) \$1,000,000 OR (II) THE ACTUAL BILLINGS FOR THE GOODS GIVING RISE TO SUCH CLAIM FOR DAMAGES.

(b) **EXCLUSIONS.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXPECTANCY, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, DELIVERY OF GOODS, OR DELAYED DELIVERY OF GOODS. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE AND WHETHER OR NOT DAMAGES WERE FORESEEABLE. THESE LIMITATIONS OF LIABILITY SHALL SURVIVE FAILURE OF ANY EXCLUSIVE REMEDIES PROVIDED IN THIS AGREEMENT.

**9. WAIVER** - The failure of Granite to insist upon strict performance of any provisions of these terms or conditions or to exercise any right hereunder in any one (1) or more instances will not be construed as a waiver relinquishment of such provision and the same will remain in full force and effect.

**10. MODIFICATION OF TERMS AND CONDITIONS –** Except as otherwise provided, these terms and conditions supersede all other communications, negotiations, and/or prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, rescission, discharge, abandonment, or waiver of these terms and conditions shall be binding upon Granite unless made in writing and signed on its behalf by a duly authorized representative

of Granite. No conditions, usage of trade, course of dealing or performance, understanding or agreement, purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless hereafter made in writing and signed by the Party to be bound. Any proposed modifications or additional terms are specifically rejected and deemed a material alteration hereof. If this document shall be deemed an acceptance of a prior offer by Customer, such acceptance is expressly conditional upon Customer's assent to any additional or different terms set forth herein. Notwithstanding the foregoing, Granite reserves the right to revise this Agreement, for any reason, at any time, regardless of the materiality of such revisions.

11. **CERTIFICATION** – This agreement is subject to Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended, E.O. 13496, 29 CFR Part 471, Appendix A to Subpart A, and the corresponding regulations, to the extent required by law. 41 CFR 60-1.4, 60-741.5, and 60-250.5 are incorporated herein by reference, to the extent legally required. To the extent legally required, Granite certifies that the goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.

12. **FOREIGN CORRUPT PRACTICES ACT** - Customer shall comply with applicable laws and regulations relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§ 78dd-1, et. seq.) irrespective of the place of performance, and (ii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in Customer's country or any country where performance of this agreement or delivery of goods will occur.

13. **COMPLIANCE WITH LAW** – Customer shall comply with all applicable laws and regulations, including but not limited to U.S. anti-corruption laws and regulations and U.S. export control laws and regulations and the anti-boycott and embargo regulations and guidelines. U.S. anti-corruption laws and regulations include, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§78dd-1, et. seq.) irrespective of the place of performance, and (ii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in Customer's country or any country where performance of this agreement or delivery of goods will occur. U.S. export control laws and regulations include, without limitation, the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation, 22 C.F. R. 120 et seq., the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774, the Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-1707. Customer further agrees that if the export laws are applicable, it will not disclose or re-export any technical data received under this order to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Customer has obtained prior written authorization from the United States Office of Export Control or other authority responsible for such matters. Without limiting the foregoing in any way whatsoever, **Customer acknowledges that diversion of products and/or services contrary to U.S. law is prohibited.**

14. **ASSIGNMENT** - Neither Party may assign its rights or delegate its duties under this Agreement, in whole or in part, without the other Party's written consent (which will not be unreasonably withheld, delayed and/or conditioned), provided, however, that no such consent is required in connection with (a) a merger, reorganization or sale of all, or substantially all, of such Party's assets or equity securities or (b) either Party's assignment of this Agreement in its entirety to an affiliate, provided, in the case of Customer, Customer shall remain liable for obligations under this Agreement unless specifically agreed to by Granite. Any attempt to assign this Agreement other than as permitted above is void. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assignees.

15. **GENERAL PROVISIONS** - This Agreement, and all claims and disputes arising hereunder or related hereto, will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without reference to choice of laws, rules or principles. The federal and state courts located in Boston, Massachusetts, and any courts authorized to hear appeals from such courts, shall be the only courts with jurisdiction and venue to hear disputes under this Agreement. Both Parties and their successors waive a trial by jury of any and all issues arising in any action or proceeding between the Parties hereto or their successors, under or connected with this Agreement, or any of its provisions.

16. **PAYMENT TERMS** – Payment by Customer must be remitted to and received by Granite within thirty (30) days of the invoice date. In the event that Customer's form of payment causes Granite to incur additional fees and/or charges from any third party, Granite may reasonably revise the rates and charges. Granite may add a monthly service charge of the lesser of one and one half percent (1.5%) or the maximum permitted by law for all accounts not paid by the net due date. In addition, Granite may defer any further shipments or other orders, or cancel any portion of an unshipped order. Customer

will pay, to the extent permitted by law, all reasonable costs and expenses, including attorneys' fees, collection agency fees and court costs incurred by Granite in connection with any collection action for payment of amounts due.

17. **EXPORTING** - All items are sold for domestic consumption in the United States. Customer acknowledges that this order and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders. Customer agrees to comply with all such laws, regulations, and orders, including, if applicable, all requirements of the International Traffic in Arms Regulations and/or the Export Administration Act, as may be amended. Customer further agrees that if the export laws are applicable, it will not disclose or re-export any technical data received under this order to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Customer has obtained prior written authorization from the United States Office of Export Control or other authority responsible for such matters.

18. **PRODUCT COMPLIANCE AND SUITABILITY** - Jurisdictions have varying laws, codes and regulations governing construction, installation, and/or use of products for a particular purpose. Certain products may not be available for sale in all areas. Granite does not guarantee compliance or suitability of the products it sells, nor does Granite accept responsibility for construction, installation and/or use of a product. It is Customer's responsibility to ensure purchase, application and use of the goods are in compliance with applicable laws, codes and regulations of the applicable jurisdiction.

19. **ERRORS; CANCELLATIONS** - All clerical errors are subject to correction by Granite. Granite attempts to ensure that the content on its web sites is complete and current. However, Granite cannot guarantee that the information contained on its websites will be free of errors, inaccuracies, or omissions. Such errors, inaccuracies, or omissions may relate to price, product description, availability, or otherwise. Granite reserves the right to correct any error, inaccuracy, or omission, or to change or update the content without prior notice to Customer. Further, Granite reserves the right to refuse or cancel any orders (including without limitation any orders containing any error, inaccuracy, or omission) at any time and for any reason whatsoever whether or not the order has been submitted, confirmed, and/or Customer's credit card has been charged. If Customer's credit card has been charged for the purchase and Customer's order is canceled by Granite, Granite shall issue a credit to Customer's credit card for the amounts purchased, less the original credit card fee. Except for issuing such credit (if applicable), Granite shall have no liability or obligation to Customer with respect to any cancelled order.

20. **MISCELLANEOUS** –

(a) Substitutions. Products (and country of origin) may be substituted and may not be identical to catalog or website published descriptions and/or images.

(b) California Proposition 65. The State of California requires that certain warnings be given concerning products subject to Proposition 65. For products denoted with a  $\phi$  symbol the following warnings apply: **Both Cancer and Reproductive Harm** California Proposition 65 Warning: This product contains a chemical known to the State of California to cause cancer. Warning: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm. **Only Cancer Warning** California Proposition 65 Warning: This product contains a chemical known to the State of California to cause cancer. **Only Reproductive Harm** Warning California Proposition 65 Warning: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm. A complete list of Proposition 65 regulated chemicals is available by logging on to [www.oehha.ca.gov](http://www.oehha.ca.gov).