



## TERMS AND CONDITIONS OF SALE

### **EFFECTIVE: January 14, 2025**

PLEASE CAREFULLY READ THIS DOCUMENT. IT CONTAINS IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU.

THESE TERMS AND CONDITIONS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

BY PLACING AN ORDER FOR PRODUCTS OR SERVICES FROM ARCSKY, LLC, YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS.

YOU MAY NOT ORDER OR OBTAIN PRODUCTS OR SERVICES FROM ARCSKY, LLC IF YOU (A) DO NOT AGREE TO THESE TERMS AND CONDITIONS, (B) ARE NOT OF LEGAL AGE TO FORM A BINDING CONTRACT WITH ARCSKY, LLC, OR (C) ARE PROHIBITED UNDER APPLICABLE LAW FROM ACCESSING OR USING THIS WEBSITE OR ITS CONTENTS, OR ARCSKY, LLC'S PRODUCTS OR SERVICES.

These terms and conditions (these "Terms") apply to the purchase and sale of products and services from Arcsky, LLC (referred to as "us", "we", or "our" as the context may require) through any means, including but not limited to through our website at [www.arcskytech.com](http://www.arcskytech.com) (the "Site"). These Terms are subject to change by us without prior written notice at any time, in our sole discretion. The latest version of these Terms will be posted on the Site, and you should review these Terms before purchasing any products or services from us, including but not limited to the products and services that are available from us through the Site. The purchase of any product or service from us after a posted change in these Terms will constitute your acceptance of, and agreement to, such changes.

These Terms are also an integral part of the Website Terms of Use that apply generally to the use of our Site. Our Privacy Policy also applies to you when you use our Site, including when you place an order for products or services through our Site (see Section 14).

### 1. Order Acceptance and Cancellation.

#### (a) Order Acceptance.

You agree that your order is an offer to buy, under these Terms, the products and services listed in your order. All orders must be accepted by us or we will not be obligated to sell the products or services to you. We may choose not to accept any orders at our sole discretion. After having received your order, we will send you a confirmation message by email with your order number and details of the items you have ordered. Acceptance of your order and the formation of the contract of sale between us and you will not take place unless and until we have sent you an order confirmation e-mail and received any required payments in full for the products or services in the order.

(b) Order Cancellation.

You have the option to cancel your order at any time before we have sent your order confirmation e-mail by emailing us at [info@arcscopytech.com](mailto:info@arcscopytech.com). Orders may not be canceled once already confirmed.

We may, by written notice to you and without any liability, cancel any order at our sole discretion until the products and/or services in the order have been delivered. If we need to cancel your order, we will issue a full refund for the amount already paid by you for the order.

2. Prices and Payment Terms.

(a) All prices posted on this Site or otherwise delivered to you are subject to change without notice. The price charged for a product or service will be the price in effect at the time the order is placed and will be set out in your order confirmation e-mail. Price increases will only apply to orders placed after such changes. Posted prices are in US dollars (USD) and do not include any international, national, state, or local sales, use, value added, or other taxes, customs, duties, tariffs, or other similar fees, or charges for shipping and handling, insurance, or any payment processing fees (e.g. credit card fees). All such taxes, fees, and charges will be added to your total and will be itemized in your order confirmation e-mail. We are not responsible for pricing, typographical, or other errors in any offer by us and we reserve the right to cancel any orders arising from such errors.

(b) Terms of payment are within our sole discretion. Payment must be received by us before our acceptance of an order. We accept Visa, MasterCard, American Express, and Discover credit cards, wire transfers, or checks for all domestic orders. For international orders, we may require wire or electronic transfer of funds. You represent and warrant that (i) the payment information you supply to us is true, correct, and complete, (ii) you are duly authorized to use such payment method for the purchase, (iii) charges incurred by you will be honored by your financial institution, and (iv) you will pay charges incurred by you at the posted prices, including all applicable taxes, if any.

3. Shipments; Delivery; Title and Risk of Loss.

(a) We will communicate with you to arrange for shipment of the products to you after receipt of payment in full and acceptance of your order. Please check the individual product page for specific delivery options. You will pay all shipping and handling charges and all taxes, duties, tariffs or other similar fees.

(b) Arcscopy-arranged shipments are insured for the replacement value of the goods, should damages occur during transportation. International Commercial Shipping Terms (Incoterms) are CIP.

(c) Title and risk of loss pass to you upon our transfer of the products to the carrier.

(d) Shipping and delivery dates are estimates only and cannot be guaranteed. We reserve the right to change lead times without notice and are not liable for any delays in shipments. Expedited shipping is available at a surcharge and must be authorized via an invoice. Email us at [info@arcscopytech.com](mailto:info@arcscopytech.com) for more information.

(e) If you do not find our options satisfactory, you may arrange your own shipping or pick-up in person. In-person pick-up of goods must be scheduled and confirmed by Arcscopy, LLC ahead of time. Note: The date your order is ready for pick up is the date used to track your warranty period. Email us at [info@arcscopytech.com](mailto:info@arcscopytech.com) for more information.

(f) International Customers are responsible for all costs incurred during importation of goods (e.g. customs/duties/taxes) and must assign a customs broker to the shipment prior to release of shipment. Arcsky, LLC will provide all necessary documentation for successful importation of goods. The Arcsky X55 HS Code is 8806.23.0000.

(g) Customer-arranged shipments must be picked up within 30 days from the made ready date, where Arcsky has made the shipment available to customer or customer's freight forwarder. Customer-arranged shipments not picked up within 30 days may be re-allocated or incur additional lead time.

(h) Arcsky is not responsible for loading freight. Freight brokers, forwarders, and/or couriers must contact Arcsky to confirm the shipment.

#### 4. Returns and Refunds.

By default all sales are final. To return products, you must first e-mail us at [info@arcskytech.com](mailto:info@arcskytech.com) to obtain a Return Merchandize Authorization ("RMA") number before shipping your product. No returns of any type will be accepted without a RMA number. Returns and/or subsequent refunds are authorized at the sole discretion of Arcsky, LLC.

You are responsible for all shipping and handling charges on any returned products. You bear the risk of loss during shipment of your returned products. We recommend that you fully insure any return shipment against loss or damage and that you use a carrier that can provide you with proof of delivery for your protection. All returns are subject to a ten percent (10%) restocking fee.

Refunds are processed upon our receipt of your returned products. Your refund will be credited back to the same payment method used to make the original purchase. WE OFFER NO REFUNDS ON ANY PRODUCTS DESIGNATED AS NON-RETURNABLE.

#### 5. Upgrades.

From time to time, in our sole discretion, we may issue a product change notice to you pursuant to Section 16 below and offer to you or a modification, improvement, or change to the original product ordered by you from us (each an "Upgrade"). If we make an Upgrade mandatory, which we may do in our sole discretion for no reason or any reason, including to improve the safety or reliability of a product, you must accept the Upgrade within thirty (30) days or your limited warranty below will be immediately terminated and you assume all risk of using the product without such mandatory Upgrade. If we make the Upgrade optional, you must accept the Upgrade within sixty (60) days of the product change notice or you will be deemed to have rejected the Upgrade and will no longer be eligible for the Upgrade.

#### 6. LIMITED WARRANTY.

THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE.

THIS LIMITED WARRANTY CAN ALSO BE FOUND AT [WWW.ARCSKYTECH.COM/LEGAL](http://WWW.ARCSKYTECH.COM/LEGAL).

WE WARRANT THAT DURING THE WARRANTY PERIOD, THE PRODUCTS PURCHASED FROM US WILL BE FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP.

WE ALSO WARRANT THAT DURING THE WARRANTY PERIOD THE SERVICES PURCHASED FROM THE SITE WILL BE PERFORMED IN A WORKMANLIKE MANNER AND IN ACCORDANCE WITH GENERALLY RECOGNIZED INDUSTRY STANDARDS FOR SIMILAR SERVICES.

WE LIMIT THE DURATION AND REMEDIES OF ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE DURATION OF THIS LIMITED WARRANTY.

SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

OUR RESPONSIBILITY FOR DEFECTIVE PRODUCTS IS LIMITED TO REPAIR, REPLACEMENT OR PRO-RATED REFUND AS SET FORTH IN THIS WARRANTY STATEMENT. REPAIR OR REPLACEMENT INCLUDES PARTS AND LABOR. OUR RESPONSIBILITY FOR DEFECTIVE SERVICES IS LIMITED TO REPAIR, RE-PERFORMANCE OR PRO-RATED REFUND AS SET FORTH IN THIS WARRANTY STATEMENT. NEITHER ANY PERFORMANCE OR OTHER CONDUCT, NOR ANY ORAL OR WRITTEN INFORMATION, STATEMENT OR ADVICE PROVIDED BY US OR ANY OF OUR AGENTS OR EMPLOYEES WILL CREATE A WARRANTY, OR IN ANY WAY INCREASE THE SCOPE OR DURATION OF THIS LIMITED WARRANTY.

DUE TO DOMESTIC AND INTERNATIONAL CUSTOMER LOCATIONS, WE DO NOT COVER SHIPPING AND HANDLING COSTS. YOU WILL PAY SHIPPING AND HANDLING COSTS FOR REPAIR OR REPLACEMENT OF ANY KNOWN DEFECTS OF PRODUCTS UNDER THIS LIMITED WARRANTY. IF YOU BELIEVE A DEFECT IN YOUR PRODUCT EXISTS, YOU MUST FIRST CONTACT US AT [INFO@ARCSKYTECH.COM](mailto:INFO@ARCSKYTECH.COM) IN ORDER TO ALLOW US TO ATTEMPT A REMOTE TROUBLESHOOT TO DETERMINE INFORMATION ABOUT THE SUSPECTED DEFECT. IF WE DETERMINE A POTENTIAL DEFECT EXISTS, WE WILL PROVIDE OPTIONS AND COVER PARTS AND LABOR FOR THE REPAIR OR REPLACEMENT.

You will be solely responsible for, and promptly pay, all shipping and handling charges and all taxes, duties, tariffs or other similar fees. Failure to pay such shipping and handling charges and any other taxes, duties, tariffs or other similar fees may result in the non-delivery or delayed delivery of your products and in such cases we are not obligated to issue you any refund in whole or in part of any payment made to us for any such products.

(a) Who May Use This Warranty?

This limited warranty extends only to the original purchaser of products and services from us. It does not extend to any subsequent or other owner or transferee of the product or any transferee or other beneficiary of the service.

(b) What This Warranty Covers.

During the Warranty Period (as defined below), this limited warranty covers defects in materials and workmanship in products and services purchased from us, including Upgrades.

(c) What This Warranty Does Not Cover.

This limited warranty does not cover any damages due to:

- (i) transportation;
- (ii) storage;
- (iii) improper use, including but not limited to use prohibited or identified as improper in any operation manual, applicable product or service manual, or documentation;
- (iv) illegal use, under any applicable laws, regulations, ordinances, or orders;
- (v) operation outside of published maximum specifications, including but not limited to exceeding maximum takeoff weight, maximum speed, minimum or maximum temperature, maximum altitude, maximum wind speed ratings, and other maximum ratings as outlined in official documentation such as Operation Manuals and user guides;
- (vi) failure to follow the product instructions or to perform any preventive maintenance;
- (vii) modifications to the original product (other than authorized Upgrades);
- (viii) combination or use with any products, materials, processes, systems, or other matter not provided by or explicitly authorized by us in writing;
- (ix) unauthorized repair;
- (x) normal wear and tear; or
- (xi) external causes such as accidents, abuse, or other actions or events beyond our reasonable control.

This limited warranty does not cover parts and labor required for routine maintenance.

(d) The Warranty Period.

Subject to the Terms, the warranty period (the "Warranty Period") is as follows:

- (i) The lesser of sixty (60) days and up to three hundred (300) hours of normal use from the date that goods are made ready for shipment.

If an extended warranty has been purchased, the terms of the warranty set forth in the sale thereof shall replace those mentioned above.

Upgrades, accessories, or modifications to a product may reduce its durability, and, therefore, you agree that we may reduce the Warranty Period applicable to you if you accept an Upgrade, or install accessories or make modifications, if any, that you purchase from us or we provide to you as a product or service. The Warranty Period terminates immediately if you reject a mandatory Upgrade offered to you under Section 5 above. The Warranty Period is not extended if we repair or replace a warranted product or re-perform a warranted service. We may change the availability of this limited warranty at our discretion, but any changes will not be retroactive.

(e) Remedies under This Warranty?

With respect to any defective products claimed during the Warranty Period, we will, in our sole discretion, either: (i) repair or replace such products (or the defective part) free of charge or (ii) refund a pro-rated amount of the purchase price of such products. The pro-rated refund will be a fraction of a full refund and reflect the amount of use you have received from your product through the date of your claim. The amount of use will be the greater amount determined by (1) dividing the number of months which have elapsed from the date of your purchase to the date you claim by the number of months in the Warranty Period and (2) dividing the number of hours of use which have been recorded from the date of your purchase to the date of your claim by the number of hours for the applicable Warranty Period. If we elect to repair or replace the defective products, shipping and handling must be paid for by you, the customer.

With respect to any defective services during the Warranty Period, we will, in our sole discretion, either: (i) repair or re-perform the defective services free of charge or (ii) refund the purchase price of such services in part or in whole, in our sole discretion.

(f) Obtaining Warranty Service.

To obtain warranty service, you must e-mail us at [info@arcskytech.com](mailto:info@arcskytech.com) during the Warranty Period to obtain an RPA number. No warranty service will be provided without an RPA number.

(g) Limitation of Liability for Breach of Limited Warranty.

THE REMEDIES DESCRIBED ABOVE ARE YOUR SOLE AND EXCLUSIVE REMEDIES AND OUR ENTIRE OBLIGATION AND LIABILITY FOR ANY BREACH OF THIS LIMITED WARRANTY. OUR LIABILITY WILL UNDER NO CIRCUMSTANCES EXCEED THE ACTUAL AMOUNT PAID BY YOU FOR THE DEFECTIVE PRODUCT OR SERVICE PURCHASED FROM US, NOR WILL WE UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY LOSS OF OPPORTUNITY, PRODUCTION, WORK, DATA, USE, BUSINESS, GOODWILL, REPUTATION, REVENUE OR PROFIT, ANY DIMINUTION IN VALUE, COSTS OF REPLACEMENT PRODUCTS OR SERVICES, OR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OR LOSSES, WHETHER DIRECT OR INDIRECT.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

(h) Dispute Resolution.

You acknowledge and agree that the dispute resolution procedure detailed in Section 18 is the sole remedy available to you if you believe that we have not performed our obligations under this limited warranty or these Terms.

7. DISCLAIMER OF OTHER WARRANTIES.

EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN SECTION 6, ALL PRODUCTS AND SERVICES ARE PROVIDED "AS IS." WE HEREBY DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER (INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

8. LIMITATION OF LIABILITY.

NEITHER US NOR OUR REPRESENTATIVES ARE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT WE OR YOU WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) WHETHER THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED IS ALLEGED TO BE A FAILURE OF ITS ESSENTIAL PURPOSE.

9. MAXIMUM LIABILITY.

OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO YOUR PURCHASE OF PRODUCTS OR SERVICES FROM US, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL OF THE AMOUNTS PAID TO US PURSUANT TO

YOUR PURCHASE OF PRODUCTS OR SERVICES FROM US.

10. ASSUMPTION OF RISK.

WITHOUT LIMITING THE GENERALITY OF ANY OTHER TERMS, YOU ASSUME ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY PRODUCTS OR SERVICES, WHETHER IN TERMS OF OPERATING COSTS, GENERAL EFFECTIVENESS, SUCCESS OR FAILURE, AND REGARDLESS OF ANY ORAL OR WRITTEN STATEMENTS MADE BY US, BY WAY OF TECHNICAL ADVICE OR OTHERWISE, RELATED TO THE USE OF THE PRODUCTS OR SERVICES.

11. Resale or Export.

You agree to comply with all applicable laws and regulations of the various states and of the United States, including all Export Regulations, as defined below. Products and services purchased from us may be controlled for export purposes by export regulations, including but not limited to, the Export Administration Act of 1979 (50 U.S.C. 2401-2410), the Export Administration Regulations promulgated thereunder (15 C.F.R. 768-799), the International Traffic in Arms Regulations (22 C.F.R. 120-128 and 130) and their successor and supplemental regulations (collectively, "Export Regulations"). You assume the full responsibility of complying with these regulations if these products are subsequently exported or resold.

12. Non-Exclusive Purchase

We reserve the right to sell our products. The sale of an Arcsky product does not indicate regional/territorial exclusivity. Unless otherwise expressly written and agreed, Arcsky, LLC reserves the right to distribute, sell, and/or make its products available to any customers, dealers, resellers, renters, etc. as it chooses.

13. Indemnification.

You agree to indemnify, defend, and hold us and our officers, directors, employees, agents, affiliates, successors, and permitted assigns harmless against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, arising out of any third-party claim alleging:

(a) any negligent or more culpable act or omission committed by you or your personnel (including any reckless or willful misconduct) in connection with the use of our products or services;

(b) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions committed by you or your personnel (including any reckless or willful misconduct) in connection with the use of our products or services; or

(c) any failure by you or your personnel to comply with any applicable federal, state, or local laws, regulations, or codes in connection with the use of our products or services.

14. Intellectual Property Use and Ownership.

You acknowledge and agree that:

We are and will remain the sole and exclusive owner of all intellectual property rights in and to each product and service made available to you from us and any related specifications, instructions, documentation or other materials, including, but not limited to, all related trademarks, copyrights, patents, and other intellectual property rights, subject only to the limited license granted under the product's or service's license agreement, if any. You do not and will not have or acquire any ownership of these intellectual property rights in or to the products or services made available to you by us, or of any intellectual property rights relating to those products or services.

15. Privacy.

Our Privacy Policy, available at [www.arcskytech.com/legal](http://www.arcskytech.com/legal) is incorporated by reference and governs the processing of all personal data collected from you in connection with your purchase of products or services from us.

16. Force Majeure.

We will not be liable or responsible to you, nor be deemed to have defaulted or breached these Terms, for any failure or delay in our performance under these Terms when and to the extent such failure or delay is caused by or results from acts or circumstances beyond our reasonable control, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

17. Governing Law and Jurisdiction.

All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Texas. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms.

18. Dispute Resolution and Binding Arbitration.

(a) YOU AND ARCSKY, LLC ARE AGREEING TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY, OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO A CLAIM. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION.

ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN YOU AND ARCSKY, LLC ARISING FROM OR RELATING IN ANY WAY TO YOUR PURCHASE OF PRODUCTS OR SERVICES FROM US, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.

(b) The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the



Consumer Arbitration Rules (the "AAA Rules") then in effect, except as modified by this Section 18. (The AAA Rules are available at [www.adr.org/arb\\_med](http://www.adr.org/arb_med) or by calling the AAA at 1-800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this section.

The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the Agreement is void, voidable or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction.

(c) You agree to arbitration on an individual basis. In any dispute, NEITHER YOU NOR WE WILL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS IN COURT OR IN ARBITRATION OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. The arbitral tribunal may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. The arbitral tribunal has no power to consider the enforceability of this class arbitration waiver and any challenge to the class arbitration waiver may only be raised in a court of competent jurisdiction.

If any provision of this arbitration agreement is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced.

#### 19. Assignment.

You will not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this Section 18 is null and void. No assignment or delegation relieves you of any of your obligations under these Terms.

#### 20. No Waivers.

The failure by us to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any right or provision will be effective only if in writing and signed by a duly authorized representative of Arcsky, LLC.

#### 21. No Third Party Beneficiaries.

These Terms do not and are not intended to confer any rights or remedies upon any person other than you.

#### 22. Notices.

##### (a) To You.

We may provide any notice to you under these Terms by: (i) sending a message to the e-mail address you provide or (ii) by posting to the Site. Notices sent by e-mail will be effective when we send the e-mail and notices we provide by posting will be effective upon posting. It is your responsibility to keep your e-mail address current.

##### (b) To Us.

To give us notice under these Terms, you must contact us by personal delivery, overnight courier or registered or certified mail to Arcsky, LLC, 4229 FM 620 North, Suite 233, Austin, TX, 78734. We may update the address for notices to us by sending a message to the e-mail address you provide or posting an updated address on the Site. Notices provided by personal delivery will be effective immediately. Notices provided by overnight couriers will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

23. Relationship between us and you.

Nothing in this Agreement creates any agency, joint venture, partnership or other form of joint enterprise, employment or fiduciary relationship between you and us.

24. Insurance (Recommendation).

Arcsky recommends that you, at your own expense, maintain and carry in full force and at least the following types and amounts of insurance coverage in connection with your use of products purchased from us under these Terms: (a) commercial general liability with limits no less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate, including bodily injury and property damage and (b) umbrella (excess) liability for the coverage in (a), with limits no less than \$1,000,000. This Section shall not be construed in any manner as waiving, restricting, or limiting any parties obligations imposed under these Terms, including but not limited to any obligation to indemnify, defend, or hold the other harmless under these Terms.

25. Severability.

If any provision of these Terms is invalid, illegal, void or unenforceable, then that provision will be deemed severed from these Terms and will not affect the validity or enforceability of the remaining provisions of these Terms.

26. Governing Language.

These Terms and any documents provided in connection with your order or purchase of our products and services are and shall be in English and, for all purposes, the English language version of these Terms and such other documents shall govern and control, and shall prevail over any translated versions made or delivered for convenience or any other purpose.

27. Interpretation.

For purposes of these Terms, (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer these Terms as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in these Terms: (x) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices attached to, these Terms; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the

provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. You agree that these Terms will be interpreted without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments and appendices referred to herein are an integral part of these Terms to the same extent as if they were set forth herein.

28. Entire Agreement.

Our order confirmation, these Terms, our Website Terms of Use, and our Privacy Policy shall be deemed the final and integrated agreement between you and us on the matters contained in these Terms and shall supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect thereto.

ACKNOWLEDGED AND AGREED TO:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

(If applicable)

Company: \_\_\_\_\_

Title: \_\_\_\_\_

*[SIGNATURE PAGE FOR ARCSKY TERMS AND CONDITIONS OF SALE]*