

VIA TECHNOLOGY, INC. STANDARD TERMS AND CONDITIONS

The following terms and conditions constitute a part of all Via Technology, Inc. ("Via") quotations or proposals and shall apply to any resulting purchase orders or contracts unless otherwise acknowledged in writing by Via. The Purchaser, by placement of an order, acknowledges their agreement to these Terms and Conditions.

1. Scope of Work – All quotations assume that the customer provides accurate, complete, and final technical data, consistent with that provided for quoting purposes, at the time work commences under the customer's purchase order. Once work commences incremental changes in customer inputs may be subject to additional charges.
2. Schedules – All quoted turnaround times and schedules are subject to change at the time of order placement based on current Via backlog. Delivery times assume the start of work the first business day following receipt of the customer's purchase order and do not include transit time for shipments. Quoted turn around times exclude weekends and holidays unless otherwise noted and do not encompass customer review timeframes.
3. Acceptance – This quotation does not constitute an acceptance by Via of any terms and conditions not stated herein. Reference in this quotation or resulting contract or purchase order, to any offer, counter offer, or other document shall in no way constitute a modification of any of the terms and conditions of this quotation. ANY ATTEMPTED ACKNOWLEDGEMENT OF THIS QUOTATION CONTAINING TERMS AND CONDITIONS INCONSISTENT WITH, OR IN ADDITION TO, THE TERMS AND CONDITIONS PRESENTED HEREIN IS NOT BINDING UPON VIA UNLESS EXPRESSLY ACCEPTED BY VIA IN WRITING.
4. Payment & Invoicing - Unless otherwise agreed in writing, payment for goods or services delivered by Via shall be Net 30 days after the date of invoice for such goods or services. Notwithstanding the foregoing, Via reserves the right to limit the amount of credit extended or to deny to extend credit entirely. Via also reserves the right to invoice for goods and services on a periodic basis as Via deems appropriate. In the event Purchaser suspends or cancels a project after the commencement of work, Purchaser shall be responsible for all work performed and costs incurred by Via prior to such suspension or cancellation.
5. Time & Materials (T&M) Contracts – Labor for T&M contracts shall be billed at quoted hourly rates. Materials, tooling, set-up, third party costs, and travel expenses shall be billed at cost plus 15% unless otherwise specified.
6. Late Fees – A late fee of 1½ percent per month may be applied at Via's discretion to all late payments. Should Via obtain the services of a collection agency or attorney to resolve payments over 90 days late, any collection agency or attorney fees will be the responsibility of Purchaser.
7. Approvals – Unless otherwise defined and agreed to in writing by Via, all designs and services provided by Via shall be approved and accepted by the Purchaser prior to the production of resultant goods. Designs and services presented to Purchaser for approval shall be deemed accepted after fifteen (15) days, unless rejected in writing prior to such date.
8. Warranty for Engineering and/or Printed Circuit Board Design Services, Limitation of Liability - Via warrants that the services it provides shall be performed in a competent and professional manner and in conformance with agreed upon standards. Purchaser's sole remedy shall be the performance of services to provide corrective action or refund of amounts paid, as determined by Via. IN NO EVENT WILL VIA BE RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF THE COMPANY WAS AWARE OF THE POTENTIAL FOR SUCH DAMAGES. ALL OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED.
9. Warranty for Commercial Goods, Limitation of Liability - Via warrants that all goods sold by the Company shall be of good quality and free from defects in workmanship and materials as of the date of delivery to the F.O.B. point. IN NO EVENT WILL VIA BE RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF THE COMPANY WAS AWARE OF THE POTENTIAL FOR SUCH DAMAGES. ALL OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED.
 - a. Warranty claims must be made in writing within 90 days from the date of delivery to the F.O.B. point.
 - b. Via shall repair, replace or refund amounts paid, at its discretion, for any claims covered by this warranty.
 - c. This warranty is limited to the sale of goods and materials only and does not apply to services.
 - d. This warranty does not apply to product deficiencies resulting from designs or specifications which have been approved or provided by the Purchaser.
10. Assignment – No contract or any interest therein, resulting from this quotation, shall be assigned or transferred by either party except as expressly authorized in writing by the other party, and any attempted assignment without such consent shall be void.
11. Federal, State, and Local Taxes – Except as expressly provided in this quotation, prices exclude Federal, State and Local taxes and duties. Such taxes or duties, if collected by Via, will appear as a separate charge on the invoice.
12. Disputes – In the event that any dispute, arising under or relating to a contract resulting from this quotation, cannot be resolved by settlement between the parties or by an Alternative Dispute Resolution technique agreed to by all parties, either party may litigate any such dispute. Purchaser agrees to the exclusive jurisdiction and venue of the courts presiding in Erie County, New York for all disputes arising hereunder.
13. Applicable Law – It is agreed that contracts associated with this quotation shall be construed, interpreted and governed by the internal Laws of the State of New York, without regard to principals of conflicts of law.
14. Permits and Compliance to Applicable Rules/Regulations – Except as otherwise agreed to by the Via, the Purchaser shall procure all necessary permits or licenses required due to the special nature of services requested by the Purchaser, and abide by all applicable laws, regulations and ordinances of the United States and the State, territory and political subdivision in which the work under contract is performed.
15. Patents – It is the responsibility of the Purchaser to ensure that products or services provided by Via at the Purchaser's request or direction do not violate any patents existing or pending. Moreover, the Purchaser assumes full liability for any such patent infringements, and agrees to indemnify and defend Via against any such liability.
16. Insolvency – If Purchaser ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Purchaser, or a receiver for Purchaser is appointed

or applied for, or an assignment of creditors is made by the Purchaser, Via, to the extent permitted by law, may terminate the contract without liability.

17. Cancellation – If the Purchaser chooses to cancel any contract or order associated with this quotation, written notice must be given to and acknowledged by Via during normal work hours. Via will stop work in progress, whereupon it will invoice the Purchaser for all applicable services rendered, including labor, materials, outside services, and fees, up to the time of cancellation. Labor charges will be calculated based on Via's standard hourly rates. Payment shall be due within 15 working days.
18. Order of Precedence – In the event of an inconsistency between the provisions of these terms and conditions and the provisions of any other documents exchanged, or agreements made between the parties, these terms and conditions shall supercede any inconsistent provision in such other documents or agreements, unless expressly amended by a written agreement making specific reference to the provisions being amended.
19. Attorneys' Fees and Costs – In connection with any litigation arising out of the Agreement, Via shall be entitled to recover all of its costs and expenses incurred including actual attorneys' fees for services rendered in connection with such litigation, including its proceedings and post-judgment proceedings. As used herein, the term "attorneys' fees" shall be deemed to include charges for paralegal law clerks and other staff members operating under the supervision of an attorney and for all sales and/or use taxes imposed thereon by an appropriate governmental authority.
20. LIMITATION OF WARRANTIES – THE WARRANTIES STATED IN PARAGRAPHS 5 AND 6 OF THESE TERMS AND CONDITIONS ARE GIVEN IN PLACE OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR USE, OR OTHERWISE. NO PROMISE OR AFFIRMATION OF FACT MADE BY ANY AGENT OR REPRESENTATIVE OF VIA SHALL CONSTITUTE A WARRANTY BY VIA OR GIVE RISE TO ANY LIABILITY OR OBLIGATION. VIA SHALL NOT BE LIABLE IN ANY EVENT FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES AS THOSE TERMS ARE DEFINED IN ARTICLE 2 OF THE NEW YORK UNIFORM COMMERCIAL CODE. The warranties granted by Via are terminated and Via shall not be liable to Purchaser or any other person for any damage, injury or loss arising out of the use of any goods or services, whether by reason of any defect in the goods or services furnished hereunder or otherwise, if, prior to such damage, injury or loss, the goods or services are (a) damaged or misused after tender of delivery, (b) repaired, altered or modified without Via's written consent, or (c) not used, maintained, operated or applied in strict compliance with instructions supplied by Via.
21. Force Majeure - Via shall not be liable for nonperformance or delay in performance due wholly or partly to commercial impracticability or any cause not wholly or exclusively in its control or which it could not by reasonable diligence have avoided. Upon the occurrence of any such contingency, Via shall have the right to suspend or reduce deliveries during the period of such contingency, and the total quantity deliverable under this contract shall, at Via's election, be reduced by the quantities so omitted. The following shall not be considered wholly or exclusively within Via's control: fire; flood; earthquake; storm; acts of God; labor controversies; court decrees; inability to use the full capacity of plants or facilities as a result of government action, machinery malfunction or breakdowns; and inability to obtain fuel, power, raw materials, labor, containers or transportation facilities, without litigation or the payment of penalties or unreasonable prices, or the acceptance of unreasonable terms and conditions.