

INVENSYS CONTROLS GENERAL TERMS AND CONDITIONS OF SALE

- PRIORITY OF TERMS AND CONDITIONS.** Unless otherwise agreed in writing by Seller or a signed current agreement exists between the parties, the following terms and conditions are part of Seller's quotation for designated goods to be furnished to Buyer, hereinafter referred to as "Product(s)", and shall govern any resulting order. No term or condition stated in any Buyer solicitation, purchase order or other document shall become part of an order or shall otherwise be binding on Seller unless expressly agreed in writing by Seller. Seller's failure to object to any term or condition contained in any Buyer communication shall not be construed as consent to any such term or condition or be deemed a waiver of any term or condition set forth herein.
- ORDERS.** Buyer's orders are subject to Seller's credit approval. Seller reserves the right to reject any order if it reasonably determines that it cannot comply with all the requirements of said order. Buyer orders accepted or acknowledged by Seller may not be canceled or amended, or deliveries deferred, by Buyer without Seller's prior written approval and then only upon terms as shall be acceptable to Seller. Seller reserves the right to reject Buyer orders if Buyer's account is in arrears.
- PRICES.** Unless otherwise agreed in writing, all prices quoted are FOB Seller's facility and subject to change based on Seller's selling prices in effect as of the date of shipment. Prices quoted do not include any federal, state, or local excise, sales, lease, service, rental use, property, occupation, or other taxes, all of which will be added to Seller's invoice and paid by Buyer, except as exempt by law. For blanket orders, prices quoted are subject to review and retroactive adjustment, if necessary, based on actual quantities shipped.
- INVOICING AND PAYMENT TERMS.** Seller shall invoice Buyer for Products, freight and taxes upon shipment in US Dollars. Unless otherwise agreed in writing by Seller, payment terms are net thirty (30) days from the date of invoice. Any payments not made when due shall be subject to a late charge at the rate of 1½ % per month (18% per annum), or the highest amount allowed by law. Seller reserves the right to modify credit or payment terms at any time without prior notice to Buyer, and to require payment guarantees, security or payment in advance in Seller's sole discretion. Seller shall retain a security interest in the Product(s) until final payment is received. Buyer is responsible to Seller for all reasonable attorneys' fees, court costs, and/or collection agency fees should Buyer default or be late on any payments.
- PACKAGING AND DELIVERY.** Seller reserves the right to select the manner in which the Product is packaged. Special requirements for packaging will be subject to extra charges, unless otherwise agreed by Seller in writing. Shipping dates quoted by Seller are made in good faith but are not guaranteed. In the absence of shipping instructions from Buyer, Seller will use its discretion as to the selection of shipping services and routings.
- SHIPMENT AND RISK OF LOSS.** All orders delivered within the United States are shipped FOB, Seller's facility. Orders delivered outside the United States are shipped Ex Works, Seller's facility (EXW, Incoterms 2000). Unless otherwise agreed in writing, Seller shall be allowed a plus or minus ten (+/- 10%) percent leeway on the quantities called for by Buyer's order placed hereunder and the Buyer agrees to accept such quantities as fulfillment of Seller's delivery obligation. Title to and risk of loss of the Products shall pass to the Buyer upon delivery to the common carrier.
- INSPECTION AND ACCEPTANCE.** The Products covered hereby shall be deemed inspected and accepted within ten (10) days after receipt thereof unless a written notice of claim is given by Buyer within the ten (10) day period.
- WARRANTY.** Seller warrants its standard Products to be free of defects in workmanship and material under normal use and service and to perform substantially in accordance with published Seller specifications (subject to reasonable tolerances), in effect at the time of acceptance of Buyer's order, for a period of twelve (12) months from the date the Product is placed in use or eighteen (18) months from the date of manufacture, whichever occurs first ("Warranty Period"). Software, when provided with or incorporated in the Products and when used as designed and intended by Seller, is warranted to be free from reproducible defects and to not materially vary from its published specifications during the Warranty Period. Seller does not warrant that Buyer's use of the software will be uninterrupted, bug or error-free or that the software will meet the Buyer's particular requirements. Changes made to the software shall not be covered by the Warranty provided herein for both the Product and software if such changes affect the functionality or use of the Product. If any Product fails within the applicable Warranty Period, Seller shall, at its option, repair or replace the Product or credit the purchase price, provided the Product is returned to Seller's facility or designated agent with transportation charges prepaid, and the Product, upon examination by Seller, is found not to conform to the Warranty. Warranty on products, parts, components and/or software sold, but not manufactured by Seller, shall be expressly limited to the warranty terms of the manufacturer of such products, components, parts and/or software.

The above warranty does not apply to: i) defects or damage that result from use of the Products in other than their normal and customary manner; ii) defects or damage which occur from misuse, accident, water, fire or neglect; and/or iii) defects due to abuse or damage such as burned contacts, stripped threads, split castings, improper installation or missing parts. BUYER ASSUMES SOLE RESPONSIBILITY FOR DETERMINING THAT THE PRODUCTS PURCHASED ARE SUITABLE FOR THEIR INTENDED APPLICATION AND USE. PRODUCTS MANUFACTURED TO BUYER'S DESIGNS, SPECIFICATIONS OR OTHER PARTICULAR REQUIREMENTS OR INSTRUCTIONS OF BUYER ARE NOT WARRANTED TO PERFORM IN ACCORDANCE WITH SUCH DESIGNS, SPECIFICATIONS, REQUIREMENTS OR INSTRUCTIONS AND THE WARRANTY PERIOD FOR SUCH PRODUCTS SHALL BE SIX (6) MONTHS FROM THE DATE THE PRODUCT IS PLACED IN USE.

THE FOREGOING WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. THE FOREGOING IS SUBJECT TO THE LIMITATIONS OF LIABILITY HEREIN AND SHALL CONSTITUTE BUYER'S SOLE RIGHTS AND REMEDIES UNDER THESE GENERAL TERMS AND CONDITIONS OF SALE WITH RESPECT TO DEFECTS IN THE PRODUCTS.

- RETURNS AND REPAIRS.** No Product may be returned without the prior written authorization of Seller. Authorized returns must (i) be returned in good (serviceable) condition to Seller's facility from which it initially shipped, (ii) be accompanied by a packing slip, including Seller's Return

Authorization Number, and (iii) have transportation charges prepaid. Seller reserves the right to deduct an adequate service charge to cover all inspection, labor, testing and handling from any credit. All repairs are made on an FOB facility basis. All transportation charges on Products returned for repairs must be prepaid by Buyer.

10. **SOFTWARE AND FIRMWARE.** All rights and ownership in any software and firmware incorporated in the Products or otherwise supplied to Buyer shall remain the sole and exclusive property of Seller and/or its third-party providers. Buyer is hereby granted a personal, non-exclusive, non-transferable license to use the software, as provided and as intended by Seller, solely for Buyer's internal business purposes in the country in which the software or Product was furnished and solely for execution or use in the Product or system for which it was provided. Buyer will not export or re-export the software and/or firmware without the appropriate licenses.
11. **CONFIDENTIALITY.** The price schedules, quotes and any other discounts contained herein are considered Confidential Information of Seller and Buyer shall not discuss with or disseminate such Confidential Information to any third party without the prior written authorization of Seller.
12. **TOOLING.** Unless otherwise agreed in writing, title to all tooling necessary to produce the Products shall remain vested in Seller, regardless whether the Buyer pays a tooling charge or pays for such tooling. Tooling may be considered obsolete and destroyed by Seller if it does not receive any orders from Buyer requiring the use of such tooling for a period of three (3) consecutive years.
13. **LIMITATION OF LIABILITY.** Notwithstanding anything else in these General Terms and Conditions of Sale, Seller's liability shall be limited as follows:

IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOSS OF PRODUCTION, LOSS OF GOODWILL, LOSS OF CONTRACTS, LOSS OF ANTICIPATED SAVINGS, LOST REVENUES OR PROFITS, OR INCREASE IN OPERATING COSTS.

IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE PURCHASE PRICE PAID TO SELLER FOR SELLER'S PRODUCT OR SOFTWARE FOR THE QUANTITIES OF SELLER'S PRODUCTS OR SOFTWARE ACTUALLY GIVING RISE TO THE LIABILITY. IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER FOR PRODUCTS, PARTS, COMPONENTS, MATERIALS AND/OR SOFTWARE SOLD TO BUYER HEREUNDER BUT NOT MANUFACTURED BY SELLER EXCEED THE NET AMOUNT RECOVERED BY SELLER FROM THE THIRD-PARTY SUPPLIER OR MANUFACTURER FOR ANY SUCH PRODUCTS, PARTS, COMPONENTS, MATERIALS AND/OR SOFTWARE ACTUALLY GIVING RISE TO THE LIABILITY. NO CREDITS OR PAYMENTS SHALL BE MADE TO BUYER UNTIL SUCH AMOUNTS ARE ACTUALLY RECOVERED BY SELLER.

THESE LIMITATIONS SHALL APPLY EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER THE CLAIM FOR RECOVERY IS BASED ON BREACH OF WARRANTY OR CONTRACT, RECALL, INTELLECTUAL PROPERTY INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT.

THE RIGHT TO RECOVER DAMAGES WITHIN THE LIMITATIONS SPECIFIED ABOVE IS THE BUYER'S EXCLUSIVE ALTERNATIVE REMEDY IN THE EVENT THAT ANY OTHER CONTRACTUAL REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

14. GENERAL PROVISIONS

Force Majeure. Seller shall not be liable for any delay or failure in performance, or for any damages suffered by Buyer by reason of such delay, if caused or arising directly or indirectly from any act beyond Seller's reasonable control including, but not limited to, acts of God, vandalism, sabotage, accidents, fires, floods, strikes or other labor disputes, mechanical breakdown, shortages or delays in obtaining suitable parts, equipment, materials, labor, power or transportation, acts of suppliers, interruption of utility services, acts of terrorism, or acts of any unit or agency of government. Any delays so occasioned shall affect a corresponding extension of Seller's performance dates which are, in any event, understood to be approximate.

Governing Law. These General Terms and Conditions of Sale shall be governed and interpreted in accordance with the laws of the State of Illinois, regardless of the laws that might otherwise govern under applicable Illinois principles of conflicts of law, and without regard to the United Nations Convention on Contracts for the International Sale of Goods. Venue for any dispute arising from or related to these General Terms and Conditions of Sale shall be exclusively in the federal or state courts of the State of Illinois.

Compliance with Laws. Seller will use commercially reasonable efforts to comply with applicable federal and state laws and regulations governing Seller's Products. Buyer agrees that it will specifically comply with (i) the export/re-export laws of the United States, as promulgated by the U.S. Department of Commerce; (ii) the applicable export/re-export or import controls imposed by foreign countries; and (iii) all applicable laws and regulations imposed by any competent authorities including, without limitation, the U.S. Department of Commerce, and any controls or regulations of the U.S. Foreign Corrupt Practices Act and the anti-boycott regulations of the U.S. Department of State.

Waiver. The failure of Seller to enforce any provision herein shall not be construed to constitute a waiver of such provision or of Seller's subsequent right to enforce each and every provision herein.

Termination. Seller shall have the right, without prejudice to any other remedy it may have at law or in equity, to immediately cancel all Buyer orders and/or to stop all shipments to Buyer, including stoppage in transit, in the event Buyer fails to render payment on any invoice, Buyer's account is in arrears, or Buyer becomes insolvent, enters into bankruptcy or is placed in receivership. Any such termination shall not relieve Buyer of any of its obligations existing at the time of termination, including the obligation of Buyer to pay for all Products received from Seller.

Assignment. Seller reserves the right to assign, delegate or subcontract any order, in whole or in part, without the prior consent of Buyer.

Entire Agreement. These General Terms and Conditions of Sale set forth the entire understanding and agreement between the parties, and supersede all previous and contemporaneous agreements, whether verbal or written, expressed or implied, relating to the subject matter herein. These General Terms and Conditions of Sale may not be altered, amended or modified except by written instrument executed by the authorized representatives of both parties.