

Micro-Trak Systems, Inc.

STANDARD TERMS AND CONDITIONS OF SALE

These terms and conditions of sale ("Agreement") are applicable to any order placed with and accepted by Micro-Trak Systems, Inc. (referred to herein as "Supplier"):

- 1. SCOPE OF AGREEMENT.** Supplier, upon acceptance of a Purchase Order ("PO") placed by Buyer, will supply the products and services (the "Work") specified in the PO to Buyer, pursuant to the terms and conditions of this Agreement and its exhibits, if any, the Supplier's OEM Quotation ("Quote") and the Supplier's standard published retail pricing and discounts ("Price Sheets") and Supplier's acceptance of such PO submitted by Buyer is expressly limited to the terms and conditions of this Agreement and its exhibits, if any, and the Supplier's Quote and Price Sheets notwithstanding any contrary provision contained in Buyer's purchase orders, invoices, acknowledgements or other documents. The Buyer's details of the Work (e.g. item number, quantity, description and requested delivery schedule) shall be set forth in the relevant PO. The Supplier's detail of the work (e.g. prices, specifications, valid dates, terms, freight, lead time, fees for non-standard performance and minimum purchase and delivery requirements) shall be set forth in the relevant Quote and Price Sheets.
- 2. PRICE AND TERMS.** Unless otherwise expressly stated in the Quote: (a) The prices payable by Buyer for the Work to be supplied by Supplier under this Agreement will be specified in the applicable Price Sheets. All prices are in US dollars, and exclude shipping, handling and taxes. (b) Buyer payment terms without prior credit approval and open account status are cash or credit card payment in full prior to delivery or cash on delivery (COD). Buyer payment terms with prior credit approval and open account status are net thirty (30) calendar days from the date of the invoice. If Buyer does not pay an invoiced amount within terms, Buyer will in addition pay finance charges of one and one-half percent (1.5%) per month on the late balance and Supplier reserves the right to (1) withhold shipment of the Work until full payment is made; and/or (2) revoke any credit extended to Buyer. In the event that Buyer's account is more than ninety (90) days in arrears, Buyer shall reimburse Supplier for the reasonable costs, including attorneys' fees, of collecting such amounts from Buyer. In the event of any dispute regarding an invoice, no finance charges will apply in the event that Buyer provides written notice of the dispute prior to the due date for such payment. (c) Upon reasonable request by the Supplier, Buyer shall provide copies of its most recent audited financial statements or other reasonable evidence of its financial capacity and such other information as Supplier reasonable requests to determine credit status or credits limits. (d) Buyer shall provide notice within five (5) business days of the occurrence of any event which materially affects Buyer's ability to perform its obligations under this Agreement including but not limited to: (i) the material default of any supplier or sub-contractor; (ii) labor strike or dispute; or (iii) material uncured default with respect to any debt obligations of Buyer. (e) Pricing and/or specifications (whether attached to this Agreement, Quote, and Price Sheets or otherwise provided to Buyer by Supplier) are subject to change without notice and are effective as of the date of said price and/or specification change. If Buyer submits a PO to Supplier prior to a price increase with deliveries scheduled to occur after the price increase, Supplier will honor the price in effect on the date of the PO for said scheduled deliveries for a period of sixty (60) days commencing on the date of the price increase, but only for those PO's submitted prior to the date of the price increase with deliveries scheduled to occur after the price increase. (f) Work will be delivered standard UPS Ground delivery FOB Supplier's manufacturing facility. Shipping will be arranged by Supplier and billed to Buyer. All Work delivered to Buyer with shipping billed other than to Supplier is subject to handling fees billed to Buyer at a rate solely determined by Supplier.
- 3. BUYER MATERIALS AND DATA.** (a) Buyer represents and warrants that any matter it furnishes for performance of services by Supplier (i) does not infringe any copyright or trademark or other Intellectual Property Rights of any third party; (ii) is not libelous or obscene; (iii) does not invade any persons right to privacy; and (iv) does not otherwise violate any laws or infringe the rights of any third party. (b) Buyer warrants that it has the right to use and to have Supplier use on behalf of Buyer any data provided to Supplier or its Affiliates by Buyer including specifically customer names, identifying information, addresses and other

contact information and related personal information (“Data”). Buyer further warrants that it will designate on the applicable PO if Data provided pursuant to that PO is subject to HIPAA, Gramm-Leach-Bliley or other statutes providing enhanced data protection or requiring enhanced data security procedures.

4. **INTELLECTUAL PROPERTY.** Any and all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names, commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Buyer as of the date of the PO or made or conceived by employees of Buyer during the Term of the PO shall be and remain the sole and exclusive property of Buyer provided that Buyer grants to Supplier a license to use, display and distribute (and to sub-license its affiliates and sub-contractors to use, display and distribute) any intellectual property rights delivered to Supplier as reasonably necessary to fulfill any PO. Any and all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names, commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Supplier as of the date of the PO or made or conceived by employees, consultants, representatives or agents of Supplier during the term of this Agreement shall be and remain the sole and exclusive property of Supplier. Without limiting the generality of the foregoing, the parties agree that Supplier will own systems (including all web source code) related to the Work provided hereunder, including all modifications, upgrades and enhancements thereto made during the term of the PO. Without limiting the generality of the foregoing, Buyer acknowledges and agrees that Supplier is in the business of developing customized electronic control and/or monitoring solutions and that Supplier shall have the right to provide to third parties Work which is the same or similar to the Work provided herein and to use or otherwise exploit any Supplier materials in providing such Work.

5. **CONFIDENTIAL INFORMATION.** Any information that parties receive or otherwise have access to incidental to or in connection with this Agreement (collectively, the “Confidential Information”), shall be and remain the property of the disclosing party. Confidential Information shall not include information which: (i) was in the possession of the Receiving Party at the time it was first disclosed by the Disclosing Party; (ii) was in the public domain at the time it was disclosed to the Receiving Party; (iii) enters the public domain through sources independent of the Receiving Party and through no breach of this provision by the Receiving Party; (iv) is made available by the Disclosing Party to a third party on an unrestricted, non-confidential basis; (v) was lawfully obtained by the Receiving Party from a third party not known by the Receiving Party to be under an obligation of confidentiality to the Disclosing Party; or (vi) was at any time developed by the Receiving Party independently of any disclosure by the Disclosing Party. Confidential Information may be used to the extent necessary to perform this Agreement and the parties shall not disclose Confidential Information to any third party, except to its agents (who have executed confidentiality agreements containing terms substantially similar to the terms) as necessary to provide the Work hereunder. In no event shall Buyer acquire any right, title or interest in and to any product or process information, including related know how, either existing or developed during the course of the business relationship with Supplier and Buyer, and in no event shall Supplier acquire and right, title, or interest in and to any materials or information provided to it by Buyer.

6. **INDEMNIFICATION.** The indemnifying party, as Indemnitor, shall indemnify, defend and hold harmless the indemnified party, as Indemnitee, its officers, directors, employees, agents, subsidiaries, and other affiliates from and against any and all claims, damages, liabilities, and expenses (including attorney fees) arising from any third-party claim based on Indemnitor’s (or its agent’s) breach of any representation, warranty, covenant, agreement, or obligation under the Order or this Agreement , or Indemnitor’s (or its agent’s) grossly negligent and/or willful acts in carrying out its obligations under the Order or the Agreement, provided that in no event shall Supplier be responsible for any claims arising out of its compliance with instructions, requirements, or specifications provided by or required by Buyer (including the use of information, artwork, logos, and/or trademarks provided by Buyer). Neither party will be responsible for indemnifying another party hereto where the basis of the indemnity claim arises out of such other party’s own negligence or willful misconduct. In order to avail itself of this indemnity provision, Indemnitee shall promptly provide notice to Indemnitor of any such claim, tender the defense of the claim to Indemnitor, and

cooperate with Indemnitor in the defense of the claim. Indemnitor shall not be liable for any cost, expense, or compromise incurred or made by Indemnitee in any legal action without the Indemnitor's prior written consent.

7. **BREACH.** In addition to all other rights to which a party is entitled under this Agreement, if either party breaches any term of the PO, the Quote or this Agreement, the non-breaching party shall have the right to: (a) terminate the PO immediately upon written notice to the other party; and (b) seek to obtain injunctive relief to prevent such breach or to otherwise enforce the terms of this Agreement. Failure to properly demand compliance or performance of any term of the Quote or this Agreement shall not constitute a waiver of Supplier's rights hereunder and prior to any claim for damages being made for non-conformance or breach, Buyer shall provide Supplier with reasonable notice of any alleged deficiencies in the Work or performance under the Quote or this Agreement and Supplier shall have a reasonable opportunity to cure any such alleged non-conformance or breach.
8. **WARRANTY.** Supplier warrants that, if any product or part of the product (herein "Product") proves to be defective in material or workmanship, upon inspection and examination by Supplier, within one (1) year from the original date-of-purchase, and is returned to Supplier with dated proof-of-purchase, transportation prepaid, within thirty (30) days after such defect is discovered, Supplier will, at their option and sole discretion, either repair or replace said Product, except that the warranty for expendable Products, including but not limited to, light bulbs and batteries shall be thirty (30) days from the original date-of-purchase. Said warranty is valid only when the Product has been installed, operated and maintained in strict accordance with the procedures outlined in the manual. The method for determining whether a Product is defective shall be to determine whether the Product performs in conformance with the specifications contained in Supplier's Product specifications (as such specifications existed at the time the Product in question was manufactured). Any damage or failure to said Product resulting from abuse, misuse, neglect, accidental or improper installation or maintenance, unauthorized modification, use with other products or attributable to acts of God, as determined solely by the Supplier, will invalidate the warranty. Said Product will not be considered defective if it substantially fulfills the performance specification. Buyer shall be responsible for all maintenance services, if any, all in strict accordance with the procedures outlined in the manual. Said warranty is nontransferable. Notwithstanding the above, Supplier shall only be obligated to assume the cost of its own labor and parts and shall not be obligated for any costs incurred by any third party attempting to correct the Product, unless otherwise authorized by Supplier. In Supplier's sole discretion, if repair or replacement of the Product is not available, Supplier shall refund the purchase price paid for the Product.
9. **LIMITATION OF LIABILITY.** THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE AND OF ANY OTHER TYPE, WHETHER EXPRESS OR IMPLIED. THE SUPPLIER'S LIABILITY, WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY, IN NEGLIGENCE OR OTHERWISE, SHALL NOT EXCEED THE RETURN OF THE AMOUNT OF THE PURCHASE PRICE PAID, AND UNDER NO CIRCUMSTANCES SHALL THE SUPPLIER BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES. SUPPLIER NEITHER ASSUMES NOR AUTHORIZES ANYONE TO ASSUME FOR IT ANY OTHER OBLIGATION OR LIABILITY IN CONNECTION WITH SAID PART. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTIONS UNDER THIS AGREEMENT MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS OCCURRED
10. **NOTICE.** Any notice sent pursuant to the Order or this Agreement shall be sent by certified mail, return receipt requested, or by overnight mail to the addresses on the Order or to such address as either party may in the future designate. A copy of any notice to Supplier shall be also sent to General Counsel, 1725 Roe Crest Drive, North Mankato, Minnesota 56003 together with a copy this Agreement. Notices shall be effective upon receipt.

11. **ASSIGNMENT.** Except as otherwise provided, the PO, the Quote and this Agreement shall be binding upon and inure to the benefit of the parties' successors and lawful assigns.
12. **STATUS.** Buyer and Supplier are separate entities. Nothing in the PO, the Quote or this Agreement shall be construed as creating an employer-employee or joint venture relationship.
13. **COMPLIANCE WITH LAW.** Supplier shall comply with all state, federal and local laws and regulations applicable to its performance hereunder.
14. **GOVERNING LAW.** The PO, the Quote and this Agreement shall be governed by the laws of the State of Minnesota, without reference to conflicts of law principles. Any legal suit, action or proceeding arising out of or relating to the PO, the Quote or this Agreement shall be commenced in a federal court in Minnesota or in state court in the County of Nicollet, Minnesota, and the appellate courts thereof, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding. With respect to any litigation arising out of the PO, the Quote or this Agreement, the parties expressly waive any right they may have to a jury trial and agree that any such litigation shall be tried by a judge without a jury and the prevailing party shall be entitled to recover its expenses, including reasonable attorney's fees, from the other party.
15. **FORCE MAJEURE.** Neither party shall be liable for any failure to perform or delay in performance of this Agreement to the extent that any such failure arises from acts of God, war, civil insurrection or disruption, riots, government act or regulation, strikes, lockouts, labor disruption, cyber or hostile network attacks, inability to obtain raw or finished materials, inability to secure transport, or any cause beyond such party's commercially reasonable control.
16. **SURVIVAL.** In the event any provision of the PO, the Quote or this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of the PO, the Quote or this Agreement will remain in full force and effect. All sections herein relating to payment, ownership, confidentiality, indemnification and duties of defense, representations and warranties, waiver, waiver of jury trial and provisions which by their terms extend beyond the Term shall survive the termination of the PO, the Quote and this Agreement.
17. **ENTIRE AGREEMENT.** The operative provisions of any Quote and this Agreement issued by Supplier and any PO issued by Buyer, sets forth the entire agreement and understanding among the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of every and any nature among them. No proposal, purchase order, order confirmation, acceptance, or any other document provided by either Party to the other, nor any electronic click-wrap, terms of use or similar online consent or acceptance language accompanying or set forth as a prerequisite to any electronic interface or utility associated with any Work, shall be deemed to amend the terms hereof and any such contradictory or additional terms shall be ineffective. No party shall be bound by any condition, definition, warranty, or representations, other than as expressly set forth or provided for in the Quote or this Agreement, or as may be, on or subsequent to the date hereof set forth in writing and signed by the party to be bound thereby. In the event of any ambiguity or conflict between any of the terms and conditions contained a Quote and in this Agreement and the terms and conditions contained in a PO, the terms and conditions of the Quote and this Agreement shall control, unless the Parties have expressly provided in such PO that a specific provision in this Agreement is amended, in which case this Agreement shall be so amended, but only with respect to such PO. The PO, the Quote or this Agreement may not be amended, supplemented, changed, or modified, except by agreement in writing signed by the parties to be bound thereby.