

GENERAL TERMS & CONDITIONS OF SALE

These general terms and conditions of sale shall apply to all, goods, services, equipment, products manufactured, distributed or sold by MindCore Technologies Inc. ("MindCore"). The contract will consist of the following contractual documents, listed in decreasing order of precedence:

1. The contract assigned by both parties, or the order accompanied by the acknowledgement of receipt.
2. If applicable, the specific supplementary conditions included in the tender.
3. The present General Terms & Conditions of Sales.

1. ACCEPTANCE OF CONDITIONS

The Purchaser, upon receipt of MindCore's acknowledgement of an order, or upon receipt in whole or in part of the shipment sold under an order, or upon payment in whole or in part for the equipment, workmanship, goods, products, software licenses, and related materials supplied hereunder ("Equipment"), or supply of services ("Services"), or both shall be deemed an unconditional acceptance by Purchaser of these terms and conditions. Any deletions from, alterations or modifications or additions to the terms and conditions of this order, shall not be binding unless they are expressed in writing and signed by both MindCore's and the Purchaser's authorized representatives.

2. DELIVERY

- 2.1 Equipment sold hereunder unless agreed otherwise shall be delivered Ex Works (named place) as per Incoterms 2000. Delivery dates specified in any quote are approximate, unless specified as binding. Delivery performance is dependent upon prompt receipt from the Purchaser of all specifications, final approved drawings and any other details essential to the proper execution of the Purchaser's order.
- 2.2 Upon notification of readiness for shipment of Equipment by MindCore to Purchaser, Purchaser shall promptly take delivery of the Equipment. Purchaser's delay in taking delivery of the Equipment shall result in Purchaser paying storage, maintenance and associated charges and MindCore shall invoice Purchaser as if shipment or other performance had been made as originally scheduled. Such storage, handling and maintenance shall be performed at Purchaser's cost and risk. Failure of Purchaser to take prompt delivery shall result in payment terms tied to such delivery becoming due immediately and payable. The Warranty Period hereinafter defined will begin upon such notification of readiness for shipment.
- 2.3 Unless otherwise agreed upon between the parties, Purchaser shall have the sole responsibility of choosing the carrier and routing from MindCore's manufacturing facilities to the final destination.

3. FORCE MAJEURE

The MindCore shall not be liable for delays in the execution of its obligations due to causes beyond its reasonable control including but not limited to acts of God, fires, strikes, labour disturbances, floods, epidemics, quarantine restrictions, war, insurrection or riot, acts of a civil or military authority, compliance with priority orders or preference ratings issued by any Government, acts of Government authorities with respect to revocation of export or re-export permits/licenses, freight embargoes, car shortages, wrecks or delays in transportation, unusually severe weather, or inability to obtain necessary labour, materials or manufacturing facilities or supplies or delays of sub-contractors. In the event of any such delay, the Contract schedule will be extended for a minimum of time equal to the period of the delay plus a reasonable a reasonable time to resume production, and the price will be adjusted to compensate MindCore for such delay. The contract of sale will in no event be subject to cancellation by the Purchaser, due either to delay in delivery or to any other cause, without the prior written consent of MindCore. In case of cancellation, cancellation charges judged adequate by MindCore shall apply.

4. WARRANTIES

- 4.1 MindCore warrants that during the warranty period hereinafter defined, the Equipment sold shall be free from defects in material and workmanship and shall be of the kind and quality designated or described in the Contract specifications.
- 4.2 If within the sooner of eighteen (18) months from the date of notification of readiness of shipment or twelve (12) months from date of first use by Purchaser or the end user, the Equipment does not meet the warranties specified

above, MindCore agrees to correct any defect, at its option, either by repairing any defective parts, or by making available Ex Works, repaired or replacement parts, subject to the following conditions:

- a) that the Purchaser notifies MindCore promptly of any such defects;
- b) that the goods have been installed and operated in accordance with MindCore's recommendations and provided that the defect or failure has not been caused by improper use, mismanagement or neglect or by accident or peril beyond MindCore's control;
- c) that notice of every alleged defect has been given to MindCore promptly in writing and if so required by MindCore the goods or relevant parts thereof have been returned to MindCore, carriage paid, and on inspection are proven to have failed or been defective within the terms hereof;
- d) that defective or failed parts replaced by MindCore become the property of MindCore;
- e) that in respect of goods or parts or components not of MindCore, the Purchaser shall be entitled to only such benefits as MindCore may obtain under guarantee or warranty or other agreement given MindCore by MindCore's supplier, but not so as to impose liability on MindCore greater than that under the terms of this sub-paragraph;
- f) the cost of removal of the defective Equipment from its related system, site and/or ancillary equipment, and the cost of its reinstallation in such system, site and/or ancillary equipment, including all transportation costs to and from MindCore's plant or repair shop, shall be borne exclusively by the Purchaser;

4.3 Where MindCore supplies Services, MindCore warrants that it shall re-perform Services which are found to have been performed other than in a professional manner and in accordance with sound, generally accepted and professional practices in effect at the time of performance, for a period of one (1) year following the initial completion of the Service, provided MindCore receives immediate written notification of the defect.

4.4 Any repair or replacement to the foregoing warranties pursuant hereto shall not renew or extend the warranties.

4.5 Products supplied by MindCore Technologies, but manufactured by third parties, are warranted only to the extent of the manufacturer's warranty.

4.6 Any damage done to MindCore Technologies products as a result of use of Third Parties products in conjunction with MindCore products voids all warranty on MindCore products.

4.7 **THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE ARE EXCLUSIVE AND NO OTHER WARRANTIES OF ANY KIND, WHETHER STATUTORY, ORAL, WRITTEN, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY. THE PURCHASER'S EXCLUSIVE REMEDIES AND MINDCORE'S ONLY OBLIGATIONS ARISING OUT OF OR IN CONNECTION WITH DEFECTIVE EQUIPMENT OR SERVICES OR BOTH, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL BE THOSE STATED HEREIN.**

5. INSURANCE, CHARGES & PROPER CARE

So long as sums shall remain owing by Purchaser to MindCore hereunder, Purchaser shall exercise proper care in the possession and use of the Equipment and shall keep same at all times in good repair and free of all liens, options, taxes, charges, pledges, privileges and encumbrances. Purchaser shall insure Equipment against loss, destruction or theft for the full value of the replacement purchase price of the Equipment.

6. TITLE & RISK

6.1 Title to the goods or any part thereof shall not pass from MindCore to Purchaser until all payments due hereunder have been duly made in cash, except as otherwise expressly stipulated herein. The goods shall be and remain personal or moveable property, notwithstanding their mode of attachment to realty or other property. If default is made in any of the payments herein, Purchaser agrees that MindCore may retain all payments which have been made on account of the purchase price as liquidated damages, and MindCore shall be free to enter the premises where the goods may be located and remove them as MindCore' property, without prejudice to MindCore's right to recover any further expenses or damages MindCore may suffer by reason of such nonpayment.

6.2 Equipment sold hereunder shall be at the Purchaser's risk on delivery to it as specified in Article 2 above, and the loss or destruction of all or part of said Equipment shall not release Purchaser from any obligations of payment hereunder.

7. LIMITATION OF LIABILITY

7.1 Modifications or adjustments to Purchaser's processes or equipment upon the good faith recommendations of MindCore shall be made at Purchaser's risk. In no event shall MindCore be liable for conditions of Purchaser's site.

7.2 The liability MindCore, its agents, directors, officers, subcontractors, suppliers, employees, affiliated companies, for all claims, actions, judgments, expenses related to or resulting from any loss or damage arising out of performance or

non-performance of the Contract shall in no event exceed 80% of the Contract Value. Where MindCore sells Services, the liability of MindCore, its agents, directors, officers, employees, subcontractors or suppliers for all claims, actions, judgment or expenses related to or resulting from any loss or damage arising out of performance or non-performance of Services, shall in no case exceed in the aggregate 80% of the amount paid by the Purchaser to MindCore for the Services performed under the Contract.

7.3 No such claim shall be asserted against MindCore, its agents, directors, officers, employees, affiliated companies, subcontractors or suppliers, unless the injury, loss or damage giving rise to the claim is sustained prior to the expiration of the period of warranty herein and no suit or action thereon shall be instituted or maintained unless it is filed in a court of competent jurisdiction within one year after the date the cause of action accrues.

7.4 In no event shall MindCore, its agents, directors, officers, employees, subcontractors, affiliated companies or suppliers be liable to Purchaser for loss of profit and for any indirect, special, incidental or consequential damages of any nature or kind including but not limited to delays, loss of revenue, loss of use, economic loss, loss of data, loss of production, costs of capital or costs of replacement power, claims of Purchaser's customers, even if MindCore has been advised of the possibility of such damages.

7.5 The limitations set forth in this Article 7 shall apply and be effective with respect to any claim, cause of action, or legal theory whatsoever including, but not limited to, contract or warranty (including performance guarantees) or breach thereof, indemnity, tort (including negligence) or strict liability.

7.6 Clause 7 shall prevail over any conflicting or inconsistent provisions contained elsewhere in the Contract.

8. PRICES & PAYMENT TERMS

8.1 Unless otherwise stated, prices are valid thirty (30) days from date of quotation by MindCore. Price adjustment clauses, if applicable, will be stated at the time of quotation and a copy will be included as part of these Terms and Conditions, in an Appendix thereto.

8.2 All prices are Ex Works unless otherwise specified in writing by MindCore. Prices quoted do not include federal, provincial, local or any other taxes, charges, levies and duties, and if same are applicable these shall be promptly paid by the Purchaser.

8.3 In cases where MindCore's price includes taxes, charges, levies and duties, in the event of any changes in any taxes, charges, levies or duties, imposed under any federal, provincial municipal or local legislation or authority, after the date of submitting applicable to Equipment sold hereunder, MindCore's sale price shall be adjusted to reflect such increases or decreases. Any penalty or interest charge levied against MindCore due to the Purchaser's late payment shall be to Purchaser's account.

8.4 Price information published in catalogues, bulletins or price lists is not a definite quotation or offer to sell.

8.5 MindCore reserves the right to adjust prices on any order for any alterations or changes authorized or made by the Purchaser subsequent to acceptance of the order.

8.6 All prices are in Canadian Dollars unless otherwise specified.

8.7 Payment shall be made direct to MindCore's offices in accordance with the conditions stated in the order. Unless otherwise specified, payment shall be due net thirty (30) days from the date of sending of the relevant invoice MindCore, and time is of the essence in Purchaser's execution of any payment hereunder. Any late payment shall bear interest at the rate set by MindCore from time to time which is one and a half percent (1.5%) per month, eighteen percent per annum (18%), at the date of issue, calculated and due on a monthly basis.

9. CANCELLATION CHARGES

Orders accepted by MindCore are not subject to changes or cancellation by Purchaser, except with MindCore's written consent. In such cases where MindCore authorizes changes or cancellation, MindCore reserves the right to charge Purchaser with reasonable costs based upon expenses already incurred and commitments made by MindCore, including, without limitation, any labour done, material purchased and also including MindCore's usual overhead and reasonable profit and cancellation charges from MindCore's suppliers.

0% - 1 week after order is issued
20% - within 4 weeks after order is issued
70% - after drawing submittal
100% - 8 weeks prior to delivery

10. BANKRUPTCY

If the Purchaser becomes bankrupt or insolvent or makes any agreement with its creditors compounding debts or if, being a limited company, any proceedings are begun in respect of it applying for the appointment of a liquidator, administrator, receiver or similar official for it or all or any substantial part of its assets or seeking an order of relief against it as debtor or under any law relating to insolvency, readjustment of debt, reorganization, administration or liquidation, MindCore may at any time by written notice terminate the Contract forthwith, in which event the provision of the CANCELLATION clause shall apply.

11. PATENT INFRINGEMENT

MindCore will, at MindCore's expense, defend any suit which may be brought against the Purchaser based on a claim that any Equipment or part furnished under contract constitutes an infringement of any Canadian letter patent (provided MindCore is notified promptly of such suit and copies of all papers therein are promptly delivered to MindCore) and MindCore have exclusive control of the litigation. MindCore agrees to pay all judgments and costs incurred in the defence of any such claim or suits. In case said Equipment or any part is held to constitute infringement and the use of the Equipment or part is enjoined, MindCore shall, at its own expense and at its sole discretion, either procure for the Purchaser the right to continue using the Equipment or part; or replace with non-infringing Equipment; or modify it so that it becomes non-infringing; or remove the Equipment and refund the purchase price and the transportation and installation costs thereof. The foregoing states the entire liability of MindCore for patent infringement by the Equipment or any part thereof. This provision shall not apply to any equipment or part, which is manufactured by MindCore or third parties, to Purchaser's design or specifications. MindCore assumes no liability for any such infringement and the Purchaser agrees to defend any suit against MindCore for alleged infringement arising through the manufacture and sale of Equipment made to Purchaser's design or specifications and to indemnify and hold MindCore harmless from any liability arising from any such infringement.

12. DAMAGES & LOSS CLAIMS

12.1 MindCore shall carefully pack all Equipment sold hereunder and the MindCore shall assume no responsibility for damage after having received "in good order" receipts from the carrier at MindCore's works.

12.2 All claims for loss, damage and delay in transit are to be transacted by the consignee directly with the carrier. Claims for shortages or incorrect equipment must be made in writing MindCore within fifteen (15) days after receipt of the shipment. Failure to give such notice shall constitute unqualified acceptance and a waiver by the Purchaser of all claims for shortages or incorrect equipment.

13. CHANGES

MindCore reserves the right to make changes in design or to add any improvement on Equipment or other goods at any time, without incurring any obligations to install same on equipment or goods previously purchased or leased. Any changes caused or requested by Purchaser affecting the Equipment or otherwise affecting the scope of work must be accepted by MindCore and resulting adjustment to price, schedule, or both, mutually agreed in writing.

14. TESTING & ACCEPTANCE OF GOODS

14.1 Testing of the Equipment before shipment is carried out in accordance with MindCore's standard test procedures and at MindCore's cost. Any additional tests shall be agreed upon specifically between MindCore and Purchaser and shall be charged to the Purchaser.

14.2 The Purchaser shall examine the Equipment upon taking possession of same and shall inform MindCore immediately in writing of all defects and deficiencies for which MindCore is responsible. If Purchaser omits to so notify MindCore within thirty (30) days of Purchaser's possession of the Equipment, same shall be deemed to have been accepted.

14.3 Acceptance tests are carried out only if they have been agreed upon in writing by MindCore. As far as circumstances allow, such tests will be carried out in MindCore's factory. If, for reasons beyond MindCore's control, the acceptance tests cannot be carried out within the specified time, the qualities to be determined by these tests shall be deemed proved.

14.4 If it is found from one of the aforementioned tests that the Equipment does not fulfill the terms of the order, the Purchaser shall make available to MindCore suitable opportunity to remedy any deficiency.

14.5 The Purchaser shall have no other rights than the rights outlined above, in case of delivery of deficient equipment.

15. TECHNICAL DOCUMENTS

15.1 Technical documents, such as drawings, descriptions, illustrations and the like, and all weight data, shall serve as an approximate indication only, provided they have not been expressly specified as binding. MindCore reserves the right to

make any alterations considered necessary.

15.2 All plans, drawings, technical specifications, documents, software, microfilm, data, or proprietary information relating to the Equipment sold, distributed or manufactured hereunder shall be treated in confidence by the Purchaser, who shall ensure the confidentiality thereof. They remain MindCore's exclusive property and may be neither copied nor reproduced nor communicated to a third party in any way whatever nor used for manufacture of the Equipment, or parts thereof. They may be used only for operation and maintenance of the Equipment, under terms and conditions specified MindCore.

15.3 All documents submitted with tenders, which do not result in an order, shall be returned to MindCore on request.

16. SOFTWARE

16.1 Where MindCore supplies a system program, MindCore hereby grants to Purchaser a revocable non-transferable and non-exclusive license to use the computer software packages, related materials, and the intellectual property contained therein, furnished hereunder (collectively, the "Program") for the limited use described herein and in the other documents transmitted to Purchaser by MindCore. This license shall remain in effect unless terminated by MindCore due to Purchaser's breach of the provisions of this Agreement.

16.2 The Program shall be used only in connection with MindCore's Equipment. Purchaser shall have no right to use, print, display, modify or disclose the Program nor duplicate or copy the Program, with the exception that one copy may be made for security purposes.

16.3 The Program is proprietary to MindCore and this license allows the Purchaser only the limited right to use the Program, and nothing contained herein shall be deemed to convey any title to or ownership in the Program to the Purchaser.

17. GENERAL

17.1 Purchaser shall not assign this contract or any part thereof without the written consent of MindCore.

17.2 Any order received by MindCore is subject to credit approval and may be cancelled if the Purchaser's credit standing is not satisfactory to MindCore.

17.3 This Agreement and any order or contract placed hereunder shall be interpreted according to the laws of the Canadian Province in which the Contract is executed and any and all disputes arising from this Contract shall be referred to a court of competent jurisdiction in the province in which the Contract is executed.

17.4 No terms of Purchaser's purchase order shall apply to this contract, even if subsequent to the terms and conditions hereof, unless agreed in writing by an authorized representative of MindCore.

17.5 No penalties or liquidated damages shall apply pursuant to the execution of MindCore's obligations hereunder, unless accepted in writing by an officer of the MindCore.

17.6 These terms and conditions shall supersede and abrogate all previous communications, obligations, commitments or agreements, oral or written, expressed or implied, between the Purchaser and MindCore, in relation to this Agreement.

17.7 Purchaser and MindCore acknowledge having specifically requested that this Agreement and all related documents and correspondence be drafted in English.

17.8 Any addenda or appendices to this Agreement, to be applicable to any order hereunder, must be signed by both Purchaser's and MindCore's respective authorized representatives.

18 DELAYS BY PURCHASER

MindCore shall be entitled to a contract adjustment in respect to the Contract price and time schedule if its ability to perform the Work is impaired or delayed by the Purchaser or those for whom it is legally responsible. The Purchaser and MindCore shall mutually agree on an appropriate adjustment in contract price and time schedule.

19. TIME

Unless expressly provided in the Contract and mutually agreed to in writing, MindCore shall have no liability in connection with delay in delivery of goods or services.