

TERMS & CONDITIONS OF SALE

The following terms and conditions of sale shall apply to any sale of goods and services by Microwatt Control Devices Ltd., operating as MicroWatt LifeSafety Solutions (hereinafter called "seller"). Buyer shall be deemed to have full knowledge of the terms and conditions herein and such terms and conditions shall be binding if either the goods and / or services referred to herein are delivered and accepted by the Buyer.

1. DEFINITIONS

- 1.1. **"Buyer"** means the company, partnership, person or entity purchasing the Products and/or Services from the Seller identified in the Purchase Documents;
- 1.2. **"Products"** means the equipment parts and materials being purchased by the Buyer as more particularly identified in the Purchase Documents;
- 1.3. **"Purchase Documents"** means the documents accompanying these Terms and Conditions which more fully describe the Products and/or Services, including, as applicable, the Buyer's request for quotation, purchase orders, and the Seller's quotation;
- 1.4. **"Seller"** means MicroWatt Control Devices Ltd. and any division, affiliate or related company identified in the Purchase Documents;
- 1.5. **"Services"** means the services of any description or kind to be provided by the Seller in relation to the Products as more particularly identified in the Purchase Documents;
- 1.6. **"Software"** means the executable file of the computer programs, and not the source code, to be provided by the Seller to the Buyer which is more particularly described in the Purchase Documents.
- 1.7. **"Terms and Conditions"** means these general terms and conditions.

2. APPLICATION

- 2.1. The purchase may be based upon the Seller's interpretation of the requirements of the plans and/or specifications and/or information provided. The Seller does not guarantee this interpretation to be the actual requirement of quantity or of goods.
- 2.2. Any orders placed by the Buyer shall be governed by the General Terms and Conditions contained herein and shall constitute the entire agreement between the parties. Any modifications or changes to these General Terms and Conditions shall not be binding unless authorized in writing by Seller.
- 2.3. These Terms & Conditions apply and supersede any of the Buyer's standard terms and conditions whether set out in the Purchase Documents otherwise.
- 2.4. Orders based on quotation are subject to acceptance by the seller when received.
- 2.5. Any order arising is subject to credit approval prior to acceptance.
- 2.6. Seller reserves the right to correct any errors on its quotation, clerical, stenographic or other.

3. PRICES

- 3.1. Prices quoted are ICC INCOTERMS EX-Works Seller's warehouse unless otherwise stated.
- 3.2. Prices and delivery periods quoted herein are based on prevailing prices and delivery schedules at time of quotation. In the event of an order, and notwithstanding any terms to the contrary contained in the quotation, the quoted prices and delivery periods are subject to such changes as may become effective prior to acceptance and acknowledgement of said order.
- 3.3. The Seller's prices do not include applicable taxes which will be added to the price quoted and appear as a separate line item on the Seller's invoice.
- 3.4. Prices for products do not cover storing, installing, starting up or maintaining Products unless expressly stated in Seller's quotation.
- 3.5. Any order must be accompanied by all necessary information to enable Seller to fulfill the order.
- 3.6. If the USD/CDN exchange rate fluctuates by more than 2% between the date of the quotation through the date of the order acceptance, Seller reserves the right to adjust the prices for all goods manufactured or imported from the United States.

4. TERMS OF PAYMENT

- 4.1. Payment of all invoices will be made within **30 DAYS** from date of invoice unless otherwise specified in writing. On past due accounts an administration charge will be made at the rate of 1.5 % per month or 19.56 % per annum. If shipments are delayed by Buyer, payments shall become due as if shipment has been made on dates specified by Buyer.
- 4.2. In the event that the Seller and the Buyer have agreed to a milestone payment schedule, the payment specified in the milestone payment schedule shall be paid on the dates that each milestone is achieved. The Seller may

charge interest on overdue payments, commencing on the day on which the amount became payable, calculated at the rate of 1.5% per month compounded monthly (19.5618%) per annum.

5. TITLE AND DELIVERY

- 5.1. Seller's delivery of the product in good condition to a common carrier at Seller's factory or sales distributing house shall constitute delivery to the Buyer of the products and risk of loss, delivery error, breakage or liability for other damage shall thereupon pass to Buyer.
- 5.2. Shipment must be inspected by Buyer immediately upon receipt, for transportation loss or damage and claim entered with the carrier.
- 5.3. Dates or periods of delivery have to be agreed in a written form. Once the goods are packaged and ready for delivery / pick up, and if the buyer does not provide shipping instructions / pick up the goods, the consignment will be invoiced the same day.
- 5.4. The seller will store any invoiced goods for the customer for a reasonable extent of time. The invoiced goods will be stored free of cost for the first 15 days, thereafter a storage fee of 2% per month will be charged. Storage for part of the month will be considered at a minimum of one month.
- 5.5. If an order consists of several part shipments, each delivery is considered as an individual transaction. Unless agreed otherwise, the Buyer has to bear the costs of individual packaging, administration, and delivery.
- 5.6. Title to the goods in this contract shall remain in the Seller's possession until all amounts owing to the Seller are paid in full.

6. DOCUMENTATION

- 6.1. The Seller shall supply the Buyer with the documentation specified in the Seller's quotation. Any additional copies of the documentation or the supply of documentation on alternative media will be provided by the Seller to the Buyer at the Seller's price then in effect.

7. CONFIDENTIALITY

- 7.1. Each party agrees to hold Confidential Information of the other party in confidence and to use Confidential Information solely related to the supply of the Products or performance of the Services in accordance with the Purchase Documents. The term "Confidential Information" shall include all technical, business, pricing, financial and other information of a confidential nature of, or related to, one party that is disclosed or made available to, or accessed by, the other party or its representatives, directly or indirectly, through any means of communication.

8. INSTALLATION

- 8.1. The Buyer shall be responsible for transporting, receiving, storing, installing, starting up and maintaining all Products. If requested, the Seller may, at its option, provide Services to assist the Buyer in the installation of the Products at a price to be agreed to between the Buyer and the Seller or at the rates set out in the Seller's published rate schedule in effect at the time the Services are actually rendered.

9. EXCUSE OF PERFORMANCE

- 9.1. Seller shall not be liable for any damages or loss, direct, indirect, incidental or consequential to any cause whatsoever. Neither shall the Seller be liable for any loss or damage from delays in performance or from failure to perform due to causes beyond its reasonable control, including but not limited to fire, accidents, war, riots, strikes, lockouts, labour difficulties, slowdowns, incompleteness or inaccuracy of information supplied by Buyer, acts of God, wars, riots, fire, labour unrest, inability to obtain materials or components, explosions, accidents, governmental requests, laws, regulations, orders, actions or interruption of computer or telecommunication systems. If such an event occurs, the shipping date and the price of the Products and/or Services to be provided by the Seller may be revised by agreement made between the Buyer and the Seller or the Seller may at its option cancel the sale of the Products or agreement to provide Services in which case the Buyer will pay the Seller any and all losses, damages, dismantling, restocking fees, and any other costs or expenses incurred by the Seller arising from such a termination.

10. TERMINATION

- 10.1. The Buyer may terminate its purchase of any and all of the Products and/or Services, subject to advance written notice to the Seller, provided that it pays the Seller for all Products shipped and Services performed up to the date of termination and any and all losses, dismantling, cancellation, restocking charges and any other costs or expenses arising from such termination. The Seller shall have the right, in addition to any other remedy, to either terminate its agreement to sell the Products or provide the Services or suspend further deliveries of the Products or provision of the Services to the Buyer in the event the Buyer fails to make any

payment required to be made to the Seller when due.

- 10.2. Special or custom orders are not eligible to be cancelled.
- 10.3. All software based solutions including software trial development charges are non-refundable.
- 10.4. All software agreements shall remain in effect until terminated. Any limited-term license and hosted license of the Licensed Program become effective from the effective date of such license and shall continue only until the renewal date such license and during any renewal period.
- 10.5. Upon termination of the software agreement, all rights granted will terminate. Promptly upon termination for any reason or upon discontinuance or abandonment of your possession or use of the licensed program, you must return or destroy, as requested by licensor, all copies of the licensed program in your possession (whether modified or unmodified), and all other materials pertaining to the licensed program.

11. WARRANTY

Subject to Sections 12 & 13, the Seller warrants its Products and/or Services as follows:

- 11.1. The Seller will, at its option, repair or replace any defects in materials or workmanship in any Products which appear within the earlier of twelve (12) months from the date of the initial installation of such Products or eighteen (18) months from the date of shipment of such Products.
- 11.2. Products manufactured by any third party provided by the Seller to the Buyer shall be subject to the manufacturer's standard warranty and, notwithstanding anything to the contrary, the Seller shall have no liability for correcting any defect in the materials and workmanship in such Products. The Seller's only obligation is to make a reasonable commercial effort to assist the Buyer in making a warranty claim as against the manufacturer's standard warranty.
- 11.3. Any Services and consumables supplied by the Seller, including component integration, device configuration and the repair of Products are warranted against defects in workmanship for a period of the earlier of ninety (90) days from the date of the installation of the Products or completion of the Services, or one hundred and twenty (120) days from the date of shipment of the Products to the Buyer. Any interpretative services provided by the Seller are not warranted either as to the accuracy or correctness of any such interpretations or any recommendations made by the Seller based upon these interpretations.

12. WARRANTY LIMITATIONS AND EXCLUSIONS

- 12.1. The Seller does not warrant the performance of any Products and/or Services provided by it to the extent that the actual operating or other conditions differ from the specifications, information, representation of operating conditions or other data supplied by the Buyer for the purpose of the selection or design of the Products and/or Services;
- 12.2. This limited warranty shall not apply to any repair or replacement of Products caused by abuse, accidental damage, misuse, improper installation, use of unauthorized parts, unsuitable power sources or environmental conditions, improper application, corrosion or inadequate or improper preventative maintenance of the Products;
- 12.3. All costs of dismantling, reinstallation and freight and the time and expenses of the Seller's personnel and representatives for site travel and diagnosis under this warranty clause shall be borne by the Buyer unless accepted in writing by the Seller;
- 12.4. The warranties and remedies set forth in Section 10, Warranty, are exclusive. Seller's liability for warranty related claims shall be limited to the purchase price of the Products or Services triggering such claim. Notwithstanding anything to the contrary, there are no other representations, conditions or warranties of any kind, express or implied, either in fact or by operation of law, by statute or otherwise, as to merchantability, fitness for particular purpose, or any other matter with respect to the Products, Software or Services, and the Seller specifically disclaims any and all implied or statutory representations, warranties or conditions.
- 12.5. Travel time and associated living expenses applicable to on-site execution of the warranty, shall be invoiced at published service rates and borne by the buyer unless accepted in writing by the Seller.

13. LIMITATION OF REMEDY AND LIABILITY

- 13.1. The Seller shall not be liable for damages caused by delay in performance. The remedies of the Buyer set forth herein are exclusive. Notwithstanding anything to the contrary contained herein or any other related documents, regardless of the form of the claim or cause of action (whether based in contract, infringement, negligence, strict liability, other tort or otherwise), (a) in no event shall the Seller's liability exceed the price to the Buyer of the specific Products and/or Services provided by the Seller giving rise to the claim or cause of action, and (b) in no event shall the Seller be liable for loss of profits, loss of production, loss of use, indirect, special, incidental, punitive or consequential damages.

14. RETURNED PRODUCTS

- 14.1. No products are to be returned without authorization from Seller and then only in accordance with Sellers terms and instructions. No returns on custom, special orders, or tablets. All products returned for credit must be returned in original unopened containers.
- 14.2. Equipment being returned for repair shall be shipped prepaid and have a return material authorization (RMA) number associated with it. An RMA number can be obtained by either calling Microwatt at: 1 (888) 388-1592 or emailing our product service team at: mw_product_support@microwatt.com. Please note: a written statement describing the malfunction must accompany the returned device.
- 14.3. For health and safety reasons, we cannot accept the return of accessories such as headsets and earpieces.

15. SOFTWARE LICENSE

- 15.1. Notwithstanding any other provision to the contrary, the Seller or applicable third party owner shall retain all rights of ownership and title in its respective firmware and software, including all copyrights relating to such firmware and software and all copies of such firmware and software. Except as otherwise provided herein, the Buyer is hereby granted a nonexclusive, royalty free license to use firmware and software, and copies of firmware and software, incorporated into the Products only in conjunction with such Products and only at the Buyer's plant site where the Products are first used. The Buyer's use of certain firmware (as specified by the Seller) and all other software shall be governed exclusively by the Seller's and/or third party owner's applicable license terms.

16. SOFTWARE SUPPORT

- 16.1. Company shall provide maintenance, support and updating services ("Maintenance Services") as required in the sole determination of Company to keep the Software in a reasonable operational state. Other Software updates requested by Client that Company does not consider necessary can be performed as an additional Tier 2 support service. Company will provide helpdesk support for the Software and hosting services between 8:00 am and 5:00 pm Mountain Standard time, Monday through Friday excluding holidays ("Business Hours"). Client shall endeavor to report technical issues or problems with the Software or the hosting services within 30 minutes following the occurrence of such issue or problem, via e-mail to mw_product_support@microwatt.com, including the time, description, and conditions of the problem.
- 16.2. Tier 1 Support - for Software and hosting service problems, such as a User's ability to access and use the Software properly, lost passwords, and add/delete/modify User accounts, such Maintenance Services shall be provided via email or web site support form submission. Company response shall be either via email or phone, based solely on Company support staff discretion. Company will respond to each such reported issue or problem promptly, and in no event later than 24 hours for issues reported during Business Hours. The fees for Tier 1 support are included in the annual Subscription fees.
- 16.3. Tier 2 Support - for resolving questions about how to use the Software (e.g., the Software is operational but the User needs support in inputting data or executing calculations), where the explanation for such use is contained in the software user manual or software online training course, such support shall be provided at the rate of \$195 per hour. Each licensed software seat shall include 16 hours of Tier 2 support for a new license and 4 hours of support for a renewal license. Tier 2 support hours beyond those included with the software license agreement may be purchased from MicroWatt by a separate contract.
- 16.4. Tier 3 Support/Engineering Consulting Services - for resolving questions related to the design of facilities for which a User is using the Software, or for using Company to complete tasks using the Software on behalf of Client, such support shall be considered Engineering Consulting Services and shall be billed at the applicable rates (currently between \$195 to \$225 per hour). Before undertaking Engineering Consulting Services, Client and Company must agree on the scope and cost of such services, which agreement may take the form of an electronic agreement.

17. SOFTWARE MODIFICATION

- 17.1. Client may request that Company incorporate certain features, enhancements, customizations or modifications into the Software. Company may, at its sole discretion, undertake to incorporate such changes, but shall not be obligated to do so. All fees for such custom modifications shall be as agreed upon in writing by the Parties in advance of such modifications. Unless otherwise agreed in writing, Company may incorporate such changes on a non-exclusive basis and provide the Software so modified to any or all of Company's customers, and title to all such enhancements, customizations or modifications shall remain the sole property of Company.



18. CHARGE BACKS

18.1. No charge backs will be accepted without the Sellers written approval and then only to an amount no greater than Buyer's net cost or as authorized by the manufacturer of the equipment at fault.

19. GENERAL PROVISIONS

- 19.1. The Buyer shall not assign its rights or obligations under these Terms and Conditions and the Purchase Documents without the Seller's prior written consent;
- 19.2. There are no understandings, agreements or representations, express or implied, not specified in these Terms and Conditions and the Purchase Documents and these Terms and Conditions supersede any previous agreements related to the purchase of Products or Services.
- 19.3. No action, regardless of form, arising out of transactions under these Terms and Conditions and the Purchase Documents, may be brought by either party more than two (2) years after the cause of action arose;
- 19.4. If any of the provisions of these Terms and Conditions, or portions thereof, are found to be illegal or unenforceable they are to that extent only deemed to be omitted and the remaining provisions of these Terms and Conditions shall remain in full force and effect and may be enforced nonetheless to protect and reflect the original intent of the parties hereunder;
- 19.5. Any modification of these Terms and Conditions and the Purchase Documents must be set forth in a written instrument signed by a duly authorized representative of the Seller;
- 19.6. These Terms and Conditions and the Purchase Documents do not create any partnership, agency or further relationship between the parties hereto;
- 19.7. This Agreement is formed and shall be construed, performed and enforced under the laws of the Province of Alberta. Any suit, action or proceeding arising out of or connected in any way with this Agreement shall be brought in a Court of the Province of Alberta which the parties agree shall have exclusive jurisdiction to hear and resolve such disputes, subject only to the parties agreeing to resolve such disputes through arbitration.

Name of Signing Officer (Please Print): _____

Title: _____ Signature: _____ Date _____