

Terms and Conditions of Sale

By (a) executing the quote or other related document to which these terms are attached (the “Quote”) or (b) delivering an order or paying for the items or equipment (“Products”) or services (“Services”) identified in the Quote or otherwise ordered, the below terms together with the terms on the Quote become a binding agreement (collectively, this “Agreement”) of Net Controls, LLC (“NET CONTROLS”) and the party identified as “Buyer” on the Quote or which otherwise orders Products or Services (“Buyer”).

- 1. No Other Terms.** It is a condition of this Agreement that any provision in any acceptance or acknowledgment hereof, inconsistent with or in addition to the terms of this Agreement, are expressly rejected and shall have no force or effect, and that Buyer, by its acceptance of this Agreement, agrees that any such provisions therein or any such attempted alteration of this Agreement, shall not constitute any part of the agreement between NET CONTROLS and Buyer.
- 2. Quotes.** The Quote, if any, is valid for 30 calendar days, unless otherwise stated on the Quote. To the extent this Agreement covers Products not included in NET CONTROLS’s catalogue or website, including Products included in NET CONTROLS’s catalogue or website which are to be modified (“Custom Products”) or Services, then NET CONTROLS may revise this Agreement as necessary to reflect changes once final drawings or scope of work are presented to Buyer. If Buyer does not approve such changes, then this Agreement is terminated with respect to the affected items. The delivery date specified in a Quote or otherwise is not firm until expressly confirmed by NET CONTROLS.
- 3. Orders.** Buyer agrees to purchase the Products and Services from NET CONTROLS according to this Agreement and for the prices indicated in the Quote or otherwise agreed. Buyer must pay all amounts due under this Agreement in US dollars to the payment address noted on the applicable invoice. Freight charges shall be paid by Buyer and will be listed separately on the invoice. Orders are subject to a minimum charge of \$50 for domestic USA shipments and \$100 for international shipments. Prices and specifications are subject to change without notice.
- 4. Shipping, Delivery and Limited Acceptance Remedy.** NET CONTROLS will use reasonable efforts to perform the Services and meet acknowledged shipment dates, but will not be liable for delays. All Product shipments from NET CONTROLS will be delivered FCA, NET CONTROLS’s shipping location (Incoterms 2010). NET CONTROLS will ship all Products in its standard containers and, unless otherwise agreed, using a carrier or forwarding agent chosen by NET CONTROLS. Title to the Products transfers to Buyer on delivery at NET CONTROLS’s shipping location. Buyer bears all risk of loss for such shipments from and after the time of delivery to the carrier or forwarding agent, including while in transit to or from NET CONTROLS following rejection or a warranty claim. Buyer will pay or reimburse all freight and other shipping expenses from NET CONTROLS’s shipping location, including any special packing expenses. Buyer, not NET CONTROLS, is responsible for insuring Product shipments to and from NET CONTROLS. If, on delivery, a Product or Service (including a related deliverable) is nonconforming, then Buyer’s exclusive remedy and NET CONTROLS’s sole liability will be (a) for a nonconforming Product, to exchange such Product with another, conforming Product or, for a nonconforming Service, for NET CONTROLS to re-perform such Service at no additional cost to Buyer, or (b) at NET CONTROLS’s option, upon return for Buyer to receive a refund of the amounts paid to NET CONTROLS for such Product or Service. Any such exchange of Products will be in accordance with NET CONTROLS’s then current return materials authorization (RMA) process.
- 5. Cancellation and Rescheduling.** Products ordered under this Agreement may be cancelled prior to shipment as follows: (a) for any or all Products, at no charge within 2 business days of submission of the

related order; and (b) thereafter, (i) for Custom Products, for a charge of up to 100% of the affected Product's price, depending on the work completed by NET CONTROLS as determined by NET CONTROLS, and (ii) for all other Products, for a fee of 25% of the Product Price. Buyer also may reschedule the delivery date for the Products to a date up to 6 months from the committed delivery date, by written notice to NET CONTROLS at any time at least 30 calendar days prior to the committed delivery date; provided that the delivery date may not be rescheduled more than once. The delivery date for Products may not be otherwise rescheduled. Orders and the delivery date for Services may not be cancelled or rescheduled.

6. **Installments; Payment Terms; Taxes.** If NET CONTROLS delivers Products or Services under this Agreement in installments, then each such installment will be treated as a separate transaction and may be invoiced separately. However, if Buyer defaults, and without limiting NET CONTROLS's remedies, NET CONTROLS may terminate, or suspend performance of, some or all of this Agreement without liability. Subject to credit approval and unless otherwise indicated in the Quote, Buyer agrees to pay invoices net 30 days from the invoice date. If Buyer does not make payment when due, interest will accrue on the unpaid amount from the date due until paid at the rate of 1.5% per month, or, if less, the maximum lawful rate. Prices do not include sales, use, excise or other taxes or duties. Buyer is responsible for any such applicable tax or duty.
7. **Warranty.**
 1. **Warranty.** NET CONTROLS warrants that all Products will be free from substantial defects in materials and workmanship under normal use for 12 months (90 calendar days for Expendables (defined below)) from the date of delivery (the "**Product Warranty Period**"). NET CONTROLS warrants, for 90 calendar days from the date of Services delivery (the "**Services Warranty Period**"), that the Services will be performed in a workman-like manner in conformity with the professional standards for comparable services in the industry. "**Expendables**" are (a) Products consisting entirely of expendable items, such as gaskets, bellows, bearings, lubricants, etc., and (b) the expendable item portions of any Product. The foregoing warranties do not cover any defect caused by (i) modifications, maintenance or repairs not performed by NET CONTROLS; (ii) improper or inadequate handling, carriage or storage of the Product or any Services deliverable (other than by NET CONTROLS); (iii) use of the Product or any Services deliverable under operating conditions or environments different than those specified in the related documentation; (iv) wear, tear, deterioration or breakage; (v) the occurrence of an event of force majeure; or (vi) any negligent act or omission by anyone other than NET CONTROLS.
 2. **Claims Process.** If Buyer believes that a Product does not satisfy the above warranty, Buyer may return such Product to NET CONTROLS during the applicable Product Warranty Period. (However, Buyer must obtain from NET CONTROLS a RMA number before returning the Product and otherwise comply with NET CONTROLS's RMA procedures.) **If NET CONTROLS determines that the returned Product does not satisfy the above warranty, then Buyer's exclusive remedy and NET CONTROLS's sole liability will be to, at NET CONTROLS's option, repair or replace the Product and return it to Buyer or refund the purchase price of such item.** If NET CONTROLS elects to replace the Product it may replace it with a functionally equivalent item. If NET CONTROLS determines that the Product satisfies the above warranty or was not under warranty, it will return it to Buyer. If in the applicable Services Warranty Period, Buyer notifies NET CONTROLS that it has breached the foregoing Services warranty, then Buyer's exclusive remedy and NET CONTROLS's sole liability will be to, at NET CONTROLS's option, immediately re-perform the deficient Services at no additional cost to Buyer, or refund to Buyer a proportionate amount of the amounts paid to NET CONTROLS for such Services.

3. **No Other Remedies. THE FOREGOING WARRANTIES AND LIMITED REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES REGARDING THE PRODUCTS AND SERVICES. NET CONTROLS MAKES NO OTHER WARRANTIES WITH RESPECT TO THE PRODUCTS AND SERVICES, EXPRESS OR IMPLIED, AND NET CONTROLS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF SATISFACTORY QUALITY, NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, ACCURACY OF INFORMATION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THESE LIMITATIONS ARE AN ESSENTIAL PART OF THIS AGREEMENT.**

8. **Returns.** Custom Products, including Services deliverables, may not be returned by Buyer. Other Products may be returned to NET CONTROLS at Buyer's expense within 30 calendar days of delivery, subject to NET CONTROLS's approval and a 25% restocking fee. Buyer must obtain from NET CONTROLS a RMA number before returning any such Product and otherwise comply with NET CONTROLS's RMA procedures. All such returned Products must be unused, 100% complete and contain all original packing materials. No Products may be returned after 30 calendar days from delivery to Buyer. Following such a return, NET CONTROLS will issue to Buyer a credit for the amount paid for such Product less the restocking fee. Such credit may only be applied against future purchases from NET CONTROLS and will expire 1 year after issuance. No cash refund will be issued by NET CONTROLS. The foregoing does not affect Buyer's right to make a warranty claim under **Section 7**.

9. **IP Rights.** This Agreement does not alter each party's rights in its respective intellectual property. NET Controls retains all IP rights to NET CONTROLS' products and by accepting delivery BUYER agrees not to copy, duplicate, reverse-engineer, part-out or otherwise reproduce NET CONTROLS' product and manufacture or sell a duplicate product without the express written consent of NET CONTROLS. For clarity, NET CONTROLS will own all improvements or modifications it develops in connection with this Agreement, whether to its or Buyer's intellectual property rights. However, NET CONTROLS's ownership rights will not extend to Buyer's underlying intellectual property rights.

10. **Excuse of Performance.** NET CONTROLS is not liable for any delay or failure in delivery of any Product or Service to the extent caused by any circumstance not subject to its control, including governmental action; law or regulation; strike or other labor trouble; fire damage, acts of God; or the lack of or inability to obtain raw materials, labor, fuel or supplies.

11. **Liability Limits. UNDER NO CIRCUMSTANCES AND UNDER NO THEORY OF LIABILITY WILL NET CONTROLS OR ITS SUPPLIERS BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, THIRD-PARTY REPAIR OR REPLACEMENT COSTS, LOST PROFITS, LOST SAVINGS, LOSS OF INFORMATION OR DATA, OR ANY OTHER SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN EACH CASE ARISING IN ANY WAY OUT OF THIS AGREEMENT OR THE SALE OF, USE OF, OR INABILITY TO USE, ANY PRODUCT OR SERVICE, EVEN IF SUCH PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

12. **Governing Law; Consent to Jurisdiction; Attorneys Fees.** This Agreement will be governed by and construed according to the laws of the State of California, without regard to conflict of laws rules. The parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods. The state and federal trial courts with jurisdiction over Chico, California, will have exclusive (other than in connection with enforcement of a judgment) jurisdiction and venue over any suit filed in connection with this Agreement. The parties hereby consent to jurisdiction and venue in such courts with regard to controversies

in connection with this Agreement. In any action to enforce, or arising out of, this Agreement, the prevailing party will be entitled to be awarded all court costs and reasonable legal fees incurred.

13. **Export Restrictions.** Buyer will comply with, and NET CONTROLS's obligations will be subject to compliance with, the U.S. Export Administration Act, other export and import restrictions, and other applicable legal requirements. Specifically, Buyer agrees to not export, re-export, or disclose, directly or indirectly, items or technical data to any person or destination when such export, re-export, or disclosure is in violation of such laws.

14. **Miscellaneous.** This Agreement is the final, complete and exclusive statement of the agreement between Buyer and NET CONTROLS with respect to the Products and Services described or referenced herein. Without limiting the foregoing, this Agreement does not replace any pre-existing nondisclosure agreement between the parties. However, if the terms of any such nondisclosure agreement conflict with this Agreement, then the terms of this Agreement will control. If the terms on the Quote conflict with the above terms, the terms on the Quote will control. Without limiting the terms of **Section 1** above, no terms, conditions, understandings, usages of the trade, courses of dealing or agreements purporting to modify, vary, explain or supplement this Agreement shall be binding unless and until made in writing and signed by Buyer and NET CONTROLS. The failure of either party to enforce any of its rights hereunder shall not constitute a waiver of such rights or of any other rights hereunder. NET CONTROLS reserves the right to correct clerical errors in this Agreement. Buyer shall not delegate any duties, nor assign any rights or claims under this Agreement, without prior written consent of NET CONTROLS, and any such attempted delegation or assignment without such consent shall be void. If any of the provisions in this Agreement are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the affected provisions will be enforced to the fullest extent possible in accordance with the mutual intent of the parties hereto. Sections **6-14** shall survive the termination of this Agreement.