

STANDARD TERMS AND CONDITIONS OF SALE APPLYING TO PRODUCTS SOLD BY NIOBRARA RESEARCH & DEVELOPMENT CORPORATION

ACKNOWLEDGMENT AND ACCEPTANCE OF ANY ORDER IS EXPRESSLY LIMITED TO AND MADE CONDITIONAL UPON THE TERMS AND CONDITIONS CONTAINED HEREIN. ANY OF THE BUYER'S TERMS AND CONDITIONS WHICH ARE IN ADDITION TO OR DIFFERENT FROM THOSE CONTAINED HEREIN AND WHICH ARE NOT SEPARATELY AGREED TO IN WRITING (EXCEPT ADDITIONAL PROVISIONS SPECIFYING QUALITY, CHARACTER OF THE PRODUCTS ORDERED AND SHIPPING INSTRUCTIONS) ARE HEREBY OBJECTED TO AND SHALL BE OF NO EFFECT. THE BUYER SHALL BE DEEMED TO HAVE ASSENTED TO ALL TERMS AND CONDITIONS CONTAINED HEREIN IF ANY PART OF THE PRODUCTS DESCRIBED HEREIN IS ACCEPTED.

ENTIRE AGREEMENT. This instrument contains the entire and only agreement between the parties hereto relating to the subject matter hereof, and any representation, affirmation of fact, and course of prior dealings, promise or condition in connection therewith or usage of the trade not incorporated herein shall not be binding on either party. The rights and obligations contained herein shall inure to and be binding upon the parties, their legal representatives, successors, and permitted assigns.

WARRANTY.

Smart Cables - Seller warrants converter, programming, and interface cables against any defect in material and workmanship or any damage that results in cable failure NO MATTER WHAT THE CAUSE for a period of one year from the date of initial shipment. Seller's sole obligation or liability to Buyer for such cables which do not conform to this warranty will be limited to Seller replacing the cable(s) with new or rebuilt units at Seller's option, or refunding the purchase price, less any applicable charges, of the nonconforming cable(s), provided that Buyer notifies Seller of the nonconformance within the warranty period.

PLC Modules & Modems - Seller warrants that PLC modules and modems furnished hereunder will, at the time of delivery, be free from defects in material and workmanship and will conform to Seller's applicable specifications for a period of one year from date of initial shipment. This warranty does not cover any defect due to accident, misuse, unauthorized repair, or a failure to install or operate the product in accordance with instructions. Seller's sole obligation or liability to Buyer for products which do not conform to the above stated warranty shall be limited to Seller, at Seller's sole discretion, either repairing, replacing with new or rebuilt units at Seller's option, or refunding the purchase price, less any applicable charges, of the nonconforming product (s), provided that Buyer notifies Seller of the nonconformance within the warranty period.

All Other Hardware Products - Seller warrants all other hardware products furnished hereunder will, at the time of delivery, be free from defects in material and workmanship and will conform to Seller's applicable specifications or, if appropriate, to Buyer's specifications accepted, in writing, by Seller for a period of ninety (90) days from date of initial shipment. This warranty does not cover any defect due to accident, misuse, unauthorized repair, or a failure to install or operate the product in accordance with instructions. Seller's sole obligation or liability to Buyer for products which do not conform to the above stated warranty shall be limited to Seller, at Seller's sole discretion, either repairing, replacing with new or rebuilt units at Seller's option, or refunding the purchase price, less any applicable charges, of the nonconforming product(s), provided that Buyer notifies Seller of the nonconformance within the warranty period.

Software Products - Seller warrants only software which is sold as a discrete item to Buyer. Seller warrants that such sold Software product furnished hereunder will, at the time of delivery, be free from defects in material and workmanship and will conform to Seller's applicable specifications or, if appropriate, to Buyer's specifications accepted, in writing, by Seller for a period of ninety (90) days from date of initial shipment. This warranty does not cover any defect due to accident, misuse, unauthorized modification, or a failure to install or operate the product in accordance with instructions. Seller's sole obligation or liability to Buyer for such software products which do not conform to the above stated warranty shall be limited to Seller, at Seller's sole discretion, either repairing, replacing with another copy, or refunding the purchase price less any applicable charges, of the nonconforming sold software, provided that Buyer provides written notification of nonconformance to Seller within the warranty period.

Software products which are provided free of charge, whether or not accompanying any hardware product, are not warranted in any manner whatsoever.

Further, all products warranted hereunder for which Seller has received timely notice of nonconformance must be returned FOB Seller's plant within thirty (30) days of receipt of replacement part, the end of warranty period, or Seller's notification that purchase price will be refunded, whichever comes first.

The Buyer shall not be required to deliver a defective part to the seller if: (1) the part was destroyed as a result of its defect or any defect in any part covered in this warranty, AND (2) the Seller is reasonably satisfied that the part was defective at the time of sale.

If both of these conditions are met, the Seller shall replace or refund the purchase price of the part in the same manner provided herein as if the Buyer had delivered it to the seller's plant.

THE WARRANTIES DESCRIBED HEREIN SHALL BE IN LIEU OF ANY OTHER WARRANTY, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. No Niobrara Research and Development dealer, agent, or employee is authorized to make any modification or addition to this warranty.

IN NO EVENT SHALL SELLER BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR THE INABILITY TO USE OUR PRODUCTS.

THE BUYER'S EXCLUSIVE REMEDY AND NIOBRARA RESEARCH AND DEVELOPMENT'S SOLE OBLIGATION UNDER THE WARRANTY DESCRIBED HEREIN, EXPRESS OR IMPLIED, IN CONTRACT, TORT, OR OTHERWISE, SHALL IN NO CASE EXCEED THE OBLIGATION OR LIABILITY SPECIFIED IN THIS WARRANTY.

Technical Assistance - Seller's Warranty as hereinabove set forth shall not be enlarged, diminished, or affected by, and no obligation or liability shall arise or grow out of, Seller's rendering of technical advice, facilities or service in connection with Buyer's order of the goods furnished hereunder.

SPECIAL PRODUCTS. The following provisions are to be considered a part of all Special Product Acknowledgments and orders. Special Product orders are those calling for products not contained in Seller's current Product Overview and Price List, or those requiring modifications to

catalog products, sample, environmental, mechanical or life testing, 100% reliability screening, quality conformance qualification, or any combination thereof.

(1) Delivery dates are best estimates only and are subject to (a) Seller's receipt of order and negotiated specifications containing, where applicable, all quoted waivers and/or exceptions, (b) Seller's receipt of any part provided by the Buyer or an agent of the Buyer which must be incorporated into the product or used for product development, (c) successful, first-time passage of products submitted to electrical performance test, to environmental and/or life test processing required by applicable specifications.

(2) The purchase of a Special Product by Buyer gives Buyer no rights to the design of such Special Product and does not preclude Seller from selling such product to any other entity nor does it prevent Seller from offering the product as a standard product at a later date.

FORCE MAJEURE. Seller shall not be liable for delays in delivery or failure to manufacture or deliver due to causes beyond its control, including but not limited to acts of God, acts of the Buyer, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riot, delays in transportation, inability to obtain necessary labor, materials, components, or manufacturing facilities, or any other commercial impracticality. In the event of such delay, the date of delivery shall be deferred for a period of time equal to the time lost by reason of the delay.

DELIVERY. All scheduled or quoted delivery dates are approximate and are based upon prompt receipt of all necessary information from the Buyer.

Unless otherwise agreed in writing by Seller, delivery of the products hereunder shall be made FOB Joplin, Missouri with transportation expenses paid by the Buyer. Such transportation expenses are prepaid by Seller and added to the invoice. Each shipment made with a common carrier is automatically insured for a maximum value of one hundred (100) dollars. Additional insurance must be purchased by the Buyer. The Seller will, on written instruction from the Buyer prior to date of shipment, arrange for insurance coverage from the transportation carrier for the amount of the purchase price of the shipment. Such insurance charges will be added to the prepaid transportation expenses and added to the Invoice. Risk of loss or damage to products in transit shall fall upon the Buyer, whose responsibility it shall be to file claims with the carrier and/or the insurance company. Title shall pass to Buyer at the point of delivery to the carrier.

PAYMENTS. Invoices for U.S. shipments shall be due and payable thirty (30) days from the date of the Invoice. Interest of 1.5% per month will accrue on past due amounts. Invoices for International shipments shall be paid by an irrevocable Letter of Credit with sight draft in US dollars; Visa, MasterCard or American Express payment; or payment in advance such as wire transfers. Seller reserves the right to deny credit to a Buyer or at any time to revoke any credit extended to Buyer because of Buyer's failure to pay for any articles when due or for any other reason deemed good and sufficient by Seller. In such event, Seller may require that all subsequent deliveries shall be paid for in advance or on delivery. Seller may suspend any further deliveries or continuance of the work to be performed by Seller until such payment has been received. If the work to be performed hereunder is delayed by the Buyer, payments shall be made based on the purchase price and the percentage of completion.

If Buyer defaults in payment of the invoice and Seller employs an attorney to assist in collection, then Buyer agrees to pay all reasonable attorney fees and costs. In the event Seller cancels Buyer's order due to nonperformance of Buyer, or if Buyer fails to purchase the total quantity specified on the order, Seller shall invoice Buyer for the cancellation charges in effect at the time of the cancellation. Failure to pay invoice charges when due shall give Seller, in addition to any other rights of Seller, the right to repossess such equipment without liability. As a secured creditor, Seller shall have a purchase money collateral until the full purchase price has been paid by the Buyer or his agent. Seller retains all the rights and remedies of a secured party under the Uniform Commercial Code. In the event of bankruptcy or insolvency of the Buyer or in the event any proceeding is brought by or against the Buyer under the bankruptcy or insolvency laws, Seller shall be entitled to cancel any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.

TAXES. The amount of any present or future sales, use, excise or other tax applicable to the sale or use of products sold hereunder shall be paid by the Buyer, or in lieu thereof the Buyer shall provide Seller with a tax-exemption certificate acceptable to the Missouri taxing authorities.

CANCELLATION. The Buyer may cancel an order only before the item has been shipped and if within seven (7) days from the date of the Order Acknowledgment by written notice to the Seller. The Buyer may not cancel an order after an item has been shipped (see the RETURNS section below). An order cancelled after seven (7) days from the date of the Order Acknowledgment and before the item has been shipped is subject to a cancellation fee. An order for a Special Product cancelled before the item has been shipped is subject to a cancellation fee.

RETURNS. The Buyer may return a product for credit within 90 days of the original invoice by contacting the Seller and receiving a Return Material Authorization (RMA). Products returned for credit are subject to a restocking fee and the Buyer is responsible for the original shipping charges, return shipping fees and the restocking fee. An item cannot be returned for credit after 90 days from date of shipment.

PURCHASE PRICE. Unless otherwise stated by Seller in written Acknowledgments issued to Buyer, prices, terms of payment, and pricing policies will be those set forth in Seller's published price lists and pricing policies in effect at the time of delivery.

MODIFICATION. No change, modification, rescission, discharge, abandonment or waiver of these Standard Conditions of Sale shall be binding upon Seller unless made in writing and signed on its behalf by an authorized employee.

FORBEARANCE. Forbearance by Seller regarding any one or more of these Standard Conditions of Sale does not prevent Seller from enforcing such Condition(s) at a later time.

ASSIGNMENT. Any assignment of this order, or of any rights or obligations hereunder by the Buyer without the written consent of the Seller shall be void.

APPLICABLE LAW. This contract and matters connected with the performance thereof shall be construed, interpreted, applied, and governed in all respects by the laws of the State of Missouri.

Date _____

By: _____