



TERMS AND CONDITIONS for MICA Controls Ltd.

1. DEFINITIONS:

- i. **“Agreement”** means the Buyer’s agreement to purchase the Product(s) and/or Services from the Seller (MICA Controls Ltd.).
- ii. **“Buyer”** means the company, partnership, person, or entity purchasing the Product(s) and/or Services from the Seller identified in the Purchase Documents.
- iii. **“Product(s)”** means the equipment parts and materials being purchased by the Buyer identified in the Purchase Documents.
- iv. **“Purchase Documents”** means the documents accompanying these Terms and Conditions which more fully describe the Products and/or Services being purchased from the Seller, including, as applicable, the Buyer’s request for quotation, purchase orders, and the Seller’s quotation.
- v. **“MICA”** and **“Seller”** means MICA Controls Ltd.
- vi. **“Services”** means any and all engineering, technical, and mechanical services and CAD drawings of any description or kind to be provided by the Seller in relation to the Products.

2. APPLICATION:

These terms and Conditions apply to every sale of Product(s) and every supply of Services by the Seller to the Buyer. The Buyer specifically agrees and acknowledges that unless the Seller agrees in writing to a modification of these Terms and Conditions, these Terms and Conditions apply and take precedence over any of the Buyer’s Terms and Conditions whether set out in the Purchase Documents or otherwise.

3. PRICES:

Unless otherwise specified by the Seller, the Seller’s price for the sale of the Product(s) will remain in effect for thirty (30) days from the date provided. 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.

4. TERMS OF PAYMENT:

Subject to approval of the Seller’s accounting department, the Buyer shall pay the Seller the price of the Product(s) and/or Services provided within thirty (30) days from the date of the Seller’s invoice. 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. All overdue payments bear interest commencing on the day on which the amount became payable, calculated at the rate of 2% per month compounded monthly (24% per annum).

5. DELIVERY AND TRANSFER OF TITLE AND RISK:

All delivery dates of the Product(s) and/or Services to be provided by the Seller are approximate only and are based on the Seller having received from the Buyer all information required by the Seller to provide the Product(s) and/or Services. Seller shall in good faith attempt to effect delivery by the date specified but shall not be responsible or liable for delays due to unexpected circumstances. In no event will the Seller be liable for incidental or consequential damages resulting from failure to meet the specified or amended delivery dates. All Product(s) shall be delivered to the Buyer at the location indicated in the Purchase Documents, EX WORKS at the point of the manufacture of the Product(s). All risk of loss or damage to the Products while in transit shall be borne by the Buyer. Title to the Product(s) shall pass to the Buyer on the Buyer making payment in full for the Product(s) or on the Product(s) being delivered to the Buyer, whichever occurs later.

6. DOCUMENTATION:

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 in effect at the time of the request. In the event The Seller’s documentation includes CAD drawings, the CAD files will be released to the Buyer only as PDF’s.



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7. INSTALLATION:

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

8. EXCUSE OF PERFORMANCE:

The Seller shall be excused from the performance of any term or condition of this sale or the provision of Services when and to the extent that the performance is delayed beyond its reasonable control including, without limitation to, acts of God, wars, riots, labour unrest, inability to obtain materials or components, explosions, accidents, governmental requests, laws, regulations, orders or actions. If such an event occurs, the delivery date and the price of the Product(s) 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 Product(s) 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 expense incurred by the Seller arising from such a termination.

9. TERMINATION AND SUSPENSION:

The Buyer may terminate or suspend its purchase of any and all of the Product(s) and/or Services provided that it pays the Seller for any and all losses, dismantling, restocking fees and any other costs or expenses arising from such termination or suspension. The Seller shall have the right, in addition to any other remedy deemed necessary, to either terminate its agreement to sell the Product(s) or provide the Services or suspend further deliveries of the Product(s) 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. WARRANTY:

Subject to the limitations of liability and remedies set out in Section 12, the Seller warrants its Product(s) and/or Services as follow:

Seller's Products:

The Seller will, at its option, repair or replace any defects in material or workmanship in any Product(s) manufactured by the Seller which appear within the earlier of twelve (12) months from the date of initial installation or the Seller's Product(s) by the Buyer, or eighteen months (18) from the date the Seller's Products(s) were delivered to the Buyer.

Re-Sale Products:

The Product(s) manufactured by any third party (including the Seller's principals and their affiliated companies) provided by the Seller to the Buyer as the manufacturer's distributor shall be subject to the manufacturer's standard warranty. The Buyer agrees that the Seller shall have no liability for correcting any defect in the materials and workmanship in any re-sale Product(s) and that the Seller's only obligation is to make a reasonable commercial effort to assist the Buyer in making a warranty claim against the manufacturer's standard warranty.

Services:

Any Services supplied by the Seller, including component integration, device configuration, and the repair of Product(s) are warranted against defects in workmanship for a period of the earlier of ninety (90) days from the date of the installation of the Product(s) or one hundred and twenty (120) days from the date of the delivery of the Product(s) 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.

On-Site Warranty Support:

If the Buyer requires the Seller to provide any Services relating to any defect in the Product(s) and/or Services rendered or any warranty claim made by the Buyer in respect of the Product(s) and/or Services,



including diagnosis, dismantling, and reinstallation of Product(s), at the Buyer's site, all associated costs of travel and possible overnight accommodation to and from the Buyer's site and of these Services shall be paid by the Buyer at the rates set out in the Seller's published rate schedule in effect at the time the Services are actually provided.

11. WARRANTY EXCLUSIONS:

- a. The Seller does not warrant the performance of any Product(s) and/or services provided by it to the extent that the actual operating or other conditions differ from the specifications or other data supplied by the Buyer for the purpose of selection of design of the Product(s) and/or Services to be provided by the Seller.
- b. This limited warranty shall not apply to any repair or replacement of Product(s) caused by abuse, accidental damage, misuse, improper installation, and improper application, corrosion or inadequate or improper preventative maintenance of the Product(s).
- c. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO THE PRODUCT(S) OR SERVICES.

12. LIMITATION OF REMEDY AND LIABILITY:

The Seller shall not be liable for any kind of consequential damages including loss of anticipated profits, loss of use of equipment or any associated equipment, the loss of product from the Buyer's facility(s) or the loss of capital however caused. The Buyer agrees that the Seller's sole and exclusive liability for any and all losses and damages arising out of or connected in any way with the Product(s) and/or Services provided by the Seller shall be limited to the repair, correction, or replacement of the Product(s) and/or Services in accordance with the terms of limited warranty set out in Section 10 herein. The Buyer further agrees that the Seller's total liability arising out of or connected in any way with the provision of the Product(s) and/or Services is limited to the value of the Product(s) and/or Services provided by the Seller under this Agreement.

13. INDEMNITY:

The Seller agrees to protect, defend, and indemnify the Buyer, its respective officers, directors, employees, and consultants from and against any and all claims, demands, losses, causes of action, liability and costs (including all legal costs and attorney fees) of every kind and nature arising out of or connected in any way with damage to property, personal injury, or death of the Buyer's employees, or third parties alleged to have been caused by any act or omission of the Seller connected with the Product(s) and/or Services provided by the Seller. The Buyer agrees to protect, defend, and indemnify the Seller, its respective officers, directors, employees, and consultants from and against all claims, demands, losses, causes of action, liability and costs (including all legal costs and attorney fees) of every kind and nature arising out of or connected in any way with damage to property, personal injury, or death of the Seller's employees, or third parties alleged to have been caused by any act or omission of the Buyer.

14. INSURANCE:

The Buyer shall provide at its expense property damage insurance or "all risk" builder's risk insurance covering all of its property on the basis of full replacement cost value without depreciation which will name the Seller and any manufacturer of the Product(s) as additional insured's with a waiver of subrogation against all insured parties thereunder.

15. GENERAL PROVISIONS:

- a. Buyer shall not assign its rights or obligations under this Agreement without Seller's prior written consent.
- b. There are no understandings, agreements, or representations, express or implied, not specified in this Agreement.
- c. No action, regardless of form, arising out of transactions under this Agreement, may be brought by either party more than two (2) years after the cause of action arose.
- d. 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 shall have exclusive jurisdiction to hear and resolve such disputes, subject only to the parties agreeing to resolve such disputes through arbitration.