

## TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale (the "Agreement") of SignalCraft Technologies, Inc. ("SCT") shall apply to the customer listed on the quotation, (hereinafter known as the "Customer").

**1. TITLE** – Title to the products of SCT shall remain with SCT until payment is made in full by Customer. Such reservation of title is for the purpose of securing the purchase price and shall not relieve Customer of the duty to inspect the products upon receipt, to notify SCT of any deficiencies or defects, and to exercise due care in the use, installation, operation, and maintenance of the products when on the premises of the Customer or under the control of the Customer. Notwithstanding any reservation of title by SCT, risk of loss shall pass to Customer at the time of shipment.

**2. SHIPMENT AND DELIVERY** – Unless specified otherwise in the quotation, all orders will be shipped F.O.B. Calgary, Canada. All destination, shipping and other charges shall be paid by the Customer in accordance with SCT's then current shipping and billing practices. Delivery dates given in the acceptance of any order are approximate. SCT shall not be liable for delays in delivery or in performance due to causes beyond its reasonable control including acts of God, acts of Customer, acts of civil or military authority, fires, strikes or other labor disturbances, war riot or delays in transportation. In the event of such delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay.

**3. PRICE** – Prices in any SCT publication are subject to change without prior notification. Catalog prices are based on prices published in the current price list. All written quotations are valid for thirty (30) days from the date of quotation. Customer shall pay all sales, use, excise or similar taxes whenever SCT must itself pay and/or collect such tax from Customer arising out of the sale.

**4. PAYMENT** – Customer agrees to make payment within thirty (30) days of date of the invoice from SCT. Customer agrees to pay a late payment charge of one and one-half percent (1.5%) per month, or the maximum late payment charge permitted by applicable law, whichever is less, on any unpaid amount for each calendar month (or fraction thereof) that such payment is in default. In the event of referral to an attorney for collection, reasonable attorney's fees for collection of the overdue amount shall be paid by Customer. In the event payment is not received within 30 days from the date of invoice, any discount shall be cancelled and the full list price will be due.

**5. ACCEPTANCE & RETURNS** -- Customer shall inspect the order promptly upon receipt. Unless Customer notifies SCT in writing within thirty (30) calendar days after the receipt of the order that it is nonconforming, describing the nonconformity in commercially reasonable detail, Customer shall be deemed to have accepted the order. Acceptance as aforesaid shall constitute acknowledgment of full performance by SCT of all its obligations under the AGREEMENT. No order delivered and accepted under this Agreement are subject to returns except upon (a) written approval of SCT and (b) payment of a fair and equitable restocking charge as determined by SCT's restocking charge policy at the time of return.

**6. LIMITED WARRANTY** – SCT warrants to Customer that the product purchased shall be free from defects in material and workmanship under normal use and service for a period of one (1) year from the date of manufacture. Written notice and an explanation of the circumstances of any claim that the product has proved defective in material or workmanship shall be given promptly by the Customer to SCT. SCT will not be liable for any misuse, improper operations, improper installation, improper maintenance, alteration, modification, accident or unusual degradation of the product or parts due to an unsuitable installation environment. No representation or other affirmation of facts, including but not limited to statements regarding capacity, suitability for use or performance of the product, shall be or be deemed to be a warranty or representation by SCT for any purpose, nor give rise to any liability or obligation of SCT whatsoever. Customer's sole and exclusive remedy in the event of breach of warranty, as set forth herein, is expressly limited to (1) the correction of the defect by adjustment, repair, modification, or replacement, or (2) issuance of a credit or refund of the purchase price for the defective product at SCT'S election and sole expense.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

THIS WARRANTY EXTENDS ONLY TO THE CUSTOMER FROM SCT OR ITS AUTHORIZED RESELLER.

**7. LIMITATION OF LIABILITY** – IN NO EVENT SHALL SCT BE LIABLE FOR LOSS OF PROFITS, INDIRECT, SPECIAL, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT OR OBLIGATIONS UNDER THIS AGREEMENT. SCT SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN SHIPMENT, INSTALLATION OR FURNISHING OF PRODUCT OR SERVICES UNDER THIS AGREEMENT.

No action arising out of any claimed breach of this Agreement may be brought by either party more than two (2) years after the cause of action has accrued.

SCT shall not be liable for any product failure where the product was shipped, at Customer's request, prior to the product passing SCT's internal qualification testing processes.

**8. PATENT INDEMNITY** – SCT shall defend or settle any suit or proceeding brought against Customer based on a claim that any product made to SCT design and furnished hereunder constitutes an infringement of any existing United States patent, provided SCT is notified promptly in writing and is given complete authority and information required for the defense, and SCT shall pay all damages and costs awarded against Customer, but shall not be responsible for any costs, expense or compromise incurred or made by Customer without SCT'S prior written consent. If any product is in SCT'S opinion likely to or does become the subject of a claim for patent infringement, SCT may at its option and expense procure for Customer the right to continue using the device or modify it to become non-infringing, but in the event SCT is not reasonably able to

modify, substitute, or otherwise procure for Customer the right to continue using it, SCT will remove such product and refund to Customer the amount paid in excess of a reasonable rental for past use. SCT shall not be liable for any infringement or claim based upon use of the product in combination with other product not supplied by SCT, or with modifications made by Customer. The foregoing states the entire liability of SCT to Customer arising from patent infringement.

**9. SELLER'S REMEDIES** – Should Customer fail to make any payment within ten (10) days of its due date, or fail to perform any other of the Customer's obligation hereunder upon thirty (30) days written notice, or should Customer be or become insolvent or be a party to any bankruptcy or receivership proceeding prior to full payment of all amounts payable hereunder, SCT may: (a) with or without demand or notice to Customer declare the entire amount unpaid immediately due and payable; (b) enter upon the premises where the product may be found and remove it (Customer shall assemble the product and make it available to SCT at a place reasonably convenient to both parties and shall permit and assist SCT in effecting the retaking and removal of the product); and (c) sell any or all the product as permitted under applicable law, applying the proceeds of the sale to payment of the expenses of retaking, repairing and selling the product reasonable attorney fees and to the satisfaction of all indebtedness then due and unpaid under this Agreement. Any surplus shall be paid to Customer and any deficiency shall be paid to SCT by Customer. The remedies provided herein shall be cumulative and in addition to all other remedies provided by law or equity or under the uniform Commercial Code.

**10. CORPORATE RESPONSIBILITY** -- SCT shall, in the production of products and/or the provision of services, ensure that human rights are protected, fair labor standards are observed, no discrimination of personal in a protected class occurs, or no forced or child labor shall be permitted. SCT confirms that it will neither tolerate any kind of corruption or bribe, nor contribute to such activity in any way. SCT also shall not procure raw materials from regions or countries, known as "conflict regions", where serious ethical or environmental concerns are lawfully raised, or to use them in products.

**11. QUALITY STANDARDS** -- SCT'S internal quality management system structural framework, requirements and policies may differ from those of the Customer. Accordingly, SCT shall not comply with any external Customer quality requirements which may be stated in a purchase order or other transaction documents, unless specifically agreed upon, in writing, by the parties.

**12. EXPORT CONTROL** -- Customer acknowledges that products, software, and technical information provided under this Agreement are subject to U.S. and other export laws and regulations. Customer agrees not to export, re-export, transfer, or transmit the products, software, or technical information except in compliance with all such laws and regulations. This sale is subject to any applicable governmental approvals and, at SCT's request, Customer agrees to sign written assurances and other export-related documents as may be required for SCT to comply with export laws and regulations.

**13. GOVERNING LAW** – This Agreement shall be governed by the laws of the province of Alberta, Canada. The United Nations Convention on Contracts for the International Sale of Goods will not, for any purpose, govern or apply to the sale of goods and services or any  
SignalCraft Technologies Inc., Rev. 04

transactions, performance or disputes hereunder. Further, both parties agree that any claim or cause of action arising hereunder shall be brought in the courts located in Alberta and that both parties will submit to the personal jurisdiction of such courts.

**14. FORCE MAJEURE** -- (1) Force Majeure shall apply to this Agreement and to the respective individual agreement. Force Majeure shall mean an event beyond the control of SCT and the Customer, which prevents a party from complying with any of its obligations, including but not limited to: (a) act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods); (b) war, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition, or embargo; (c) rebellion, revolution, insurrection, or military or usurped power, or civil war; (d) contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly; (e) riot, commotion, strikes, go slows, lock outs or disorder, unless solely restricted to employees of the Supplier or of his subcontractors; or (f) acts or threats of terrorism. (2) Force majeure shall exempt the party affected by force majeure from his obligations of contractual performance for the duration of the interference and to the extent of its impact. The affected party shall make every reasonable effort to immediately provide the required information, and adjust his obligations to the modified conditions in good faith. Customer shall be fully or partially exempt from the obligation to accept the contractual products and insofar be entitled to withdraw from the Agreement if the delivery/performance is no longer utilizable at its place of business or cannot economically be expected from him anymore owing to the delay caused by force majeure.

**15. ACKNOWLEDGEMENT** – An order may be accepted by SCT either (a) by the execution and return of an order acknowledgement form, or (b) the shipment of the order to Customer with or without acceptance in writing. Notice of acceptance is hereby waived by Customer.

**16. DOCUMENT PRECEDENCE** – Documents designated by SCT are incorporated by reference, the same as if set out in full herein. Should any ambiguity or inconsistency exist in any portion of the order, including any purchase orders or other documents attached hereto, the following precedence of documents shall apply to eliminate any such ambiguity or inconsistency: (1) these Terms & Conditions of Sale (2) attachments containing specifications; and (3) the purchase order.

**17. CANCELLATION** – Neither this Agreement nor any release hereunder is subject to cancellation by Customer except upon (a) written request of Customer and (b) written acceptance by SCT. Because SCT's expenses related to cancelling firm orders are dependent upon (i) SCT's inventory carrying costs, (ii) the likelihood of SCT quickly selling the subject products to other buyers, (iii) SCT's other related out-of-pocket costs, and (iv) administrative costs, SCT may charge Customer a cancellation fee if the Customer request for cancellation request is accepted in writing by SCT.

**18. NONDISCLOSURE** – If SCT discloses or grants Customer access to any research, development, technical, economic or other business information of a confidential nature, whether reduced to writing or not, Customer agrees, as a condition of receiving such information,

that Customer will not use or disclose any such information to any other person at any time, except as may be necessary in the performance of the order, without SCT's written consent. Customer shall use such information only to perform the order. Notwithstanding the foregoing, SCT shall bear no responsibility for errors or omissions in SCT's information.

**19. LICENSES & INTELLECTUAL PROPERTY RIGHTS** -- SCT shall not grant any licenses and/or rights for using and/or transferring any patents, rights of use, brands, samples, intellectual property or any other property rights under this Agreement. Customer shall not be entitled to file an application for patents or other property rights with and/or on the basis of any confidential information obtained. In the event Customer was granted patents or other property rights contrary to the aforesaid, such rights must be transferred under separate agreement between the parties. The assignment of confidential information does not constitute any rights for prior use on behalf of the Customer.

**20. ORDER INCONSISTENCY & CONFLICT RESOLUTION** – Customer shall bear the responsibility to comply with the Agreement and all referenced documents. Customer shall clarify with SCT any inconsistencies or conflicts in any parts of the order, such as the provisions of this Agreement, additional terms and conditions, general specifications, detailed specifications, etc. Should Customer fail to contact SCT to resolve these conflicts or inconsistencies, Customer shall be solely responsible for errors resulting from such conflicts or inconsistencies. Where documents are referenced, the version in effect at the time of order placement shall apply.

**21. PROPERTY FURNISHED TO SCT BY CUSTOMER** -- If Customer furnishes or specifies any components, tools, dies, jigs or other property, product, material, or facilities to SCT in connection with the performance of this Agreement, Customer shall bear all risk of loss or damage with respect to such property, product, material, or facilities. Customer shall indemnify and hold SCT harmless from and against all loss, cost, expense or liability arising in connection with its use of any such furnished or specified property, product, material, or facilities. SCT shall not be responsible for any delay in performance or nonperformance hereunder or the failure of any product to conform to applicable specifications or conformance to SCT'S internal qualification testing process resulting, in whole or in part, from SCT's use of property, product, material, or facilities furnished or specified by Customer. In this instance, Customer shall bear all expense resulting from SCT's procurement of a Customer specified component.

**22. GENERAL** -- No addition to or modification of any of this Terms and Conditions of Sale shall be binding upon SCT unless signed in writing by a duly authorized representative of SCT in Calgary, Alberta. Typographical and clerical errors in quotations, orders and acknowledgements are subject to correction. This Agreement is not assignable without the prior written consent of SCT. Any attempt to assign any of the rights, duties or obligations of this Agreement without such consent is void. Should any provision in this Agreement be found to be unenforceable by a court of competent jurisdiction, all remaining provisions, to the greatest extent possible, shall remain in full force and effect. No failure by SCT to insist on strict performance of any term or condition hereof shall constitute a waiver of such term or condition or any breach thereof, nor shall such failure in any way affect SCT's legal remedies with respect to any default by Customer

hereunder. All notices and other communications hereunder shall be in writing and shall be mailed by certified mail, postage prepaid, to the parties hereto at their respective designated addresses. This Agreement and all shipments made hereunder shall at all times be subject to the approval by SCT of Customer's financial condition. If the financial condition of Customer at any time becomes unsatisfactory to SCT, in SCT's sole discretion, or if Customer fails to make any payment when due, in addition to any other rights SCT may have, SCT may defer or decline to make any shipment or shipments hereunder or may condition any such shipment upon receipt of satisfactory security or cash payments in advance.

THE CUSTOMER ACKNOWLEDGES THAT HE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. THE CUSTOMER AGREES THAT THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE UNDERSTANDING BETWEEN THE PARTIES, WHICH SUPERSEDES ALL PROPOSALS OR PRIOR AGREEMENTS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.