

## **Neptec Purchase Terms**

### **1. Scope and Acceptance**

These Neptec Purchase Terms (the “Terms”) are applicable to all quotes and offers and all orders and purchase orders accepted by Neptec Technologies Corp. (“Neptec”) from anyone purchasing any Neptec products (“Product(s)”). To the extent of any inconsistency between the terms of a purchase order or any other procurement document and the terms of these Terms, the terms specified in these Terms shall control and take precedence. No additional terms in any purchase order or other order procurement document shall have any effect unless approved in a quote issued by Neptec prior to the submission of such purchase order. Unless set forth in an applicable quote issued by Neptec, Neptec objects to and is not bound by any terms and/or conditions that differ from these Terms. Neptec’s acceptance of a purchase order or other procurement document or Your acceptance of delivery of any Product(s) will conclusively evidence Your acceptance of these Terms.

### **2. Ordering and Quotes**

Specific quantities of Product(s) may be ordered by You by submitting orders to Neptec. Each purchase order shall include: (i) unit quantity; (ii) shipping destination; (iii) delivery date, and (iv) any other instructions or requirements pertinent to the order. The issuance of a quote by Neptec does not guarantee the availability of any Product(s) listed in such quote irrespective of any expiration date that may be indicated in such quote. You acknowledge and agree that the Product(s) may not be in stock or available at the time you submit a purchase order. Neptec shall only be obliged to deliver Product(s) specified in any quote after having accepted a order submitted by You for such Product(s) and provided You with notice of such acceptance.

### **3. Acceptance of Orders**

An order shall be deemed to have been placed by You as of the date of receipt of such order by Neptec. If You submit an order, such order shall not be binding on Neptec and no obligation to supply Product(s) shall be imposed on Neptec until it is accepted by Neptec in writing. Neptec will use commercially reasonable efforts to respond to each purchase order submitted by You within five (5) business days following receipt thereof; if Neptec does not respond in writing within such time, then such order shall be deemed to have been rejected in writing by Neptec. Neptec shall only be obliged to fulfill accepted purchase orders for Product(s) if You are not in default of any of Your obligations under these Terms, including, without limitation, payment obligations and Neptec shall have the right, without limitation, to withhold shipment or to stop shipments that are in the possession of a carrier or any other person. You may not cancel an order once it has been accepted by Neptec.

### **4. Delivery**

Neptec will use commercially reasonable efforts to deliver the Product(s) specified in an order by the date specified in its acceptance documentation for such order. Neptec will ship the Product(s) Ex Works (INCO Terms 2010) the premises indicated the applicable quote or order acceptance documentation from Neptec. Unless specified in advance by You, Neptec will select a carrier in its own discretion. All shipments are subject to Neptec having the necessary export permits to allow Neptec to ship to the delivery address specified by You. You shall be responsible for all freight, packing, insurance and other shipping-related expenses. Risk of loss will pass to You upon delivery of the Product(s) by Neptec or one of its agents, as the case may be, to the carrier. Title to the units of the Product(s) purchased by You (other than any software and/or firmware embodied therein) shall pass to You upon payment by You to Neptec of all amounts owing in respect to such Product(s) or delivery to the applicable carrier, whichever occurs later. Partial shipments of Product(s) by Neptec are permitted. You acknowledge and agree that the prices specified for the Product(s) do not include any configuration or installation services and that You shall be solely responsible for such activities. Upon delivery all sales are final.

### **5. Prices and Payment**

For Product(s) procured by You from Neptec, You shall pay Neptec the list price for the Product(a) as specified in Neptec’s standard price list for your location, provided, however, if Neptec provided You with an quote and Your purchase order for such quotation was accepted by Neptec prior to the expiration date set forth in such quote, then You shall pay Neptec the amount specified in the quote. All payments must be made prior to shipment of the applicable Product(s) unless alternative credit arrangements have been approved in writing by Neptec. Neptec is under no obligation to extend credit arrangements to You. All prices exclude taxes (including any applicable federal, state, provincial, use, value-added, goods and services, harmonized and local taxes, excluding taxes based on Neptec’s net income) and the costs relating to the delivery of the Product(s). You shall pay to Neptec the amount

of all such taxes and additional costs. If You are required to withhold tax from any payments due to Neptec, You shall gross up any payments made to Neptec so that Neptec receives the full amount due after such withholding. If Neptec has extended credit to You and if any payment, or any other sum due to Neptec under these Terms becomes past due for more than thirty (30) days, Neptec may charge You a late payment charge of one percent (1%) per month (12.67% annually) or the maximum rate legally permitted, whichever is less, commencing from the date the payment first became overdue. Unless otherwise indicated in Neptec's price list or an applicable quote, all prices are in Canadian dollars and all amounts payable under these Terms shall be paid in Canadian dollars.

6. Price Changes

Neptec may change, in its sole discretion, any pricing set forth in its price lists at any time. If Neptec increases the price of a Product, all orders for such Product accepted prior to the effective date of the price increase shall be invoiced at the previous price. If Neptec reduces the price of a Product, Neptec will offer such reduced pricing on any purchase orders You have placed with Neptec for such Product but which have not yet been shipped at the time of publication of such reduced price. Neptec may discontinue offering any Product at any time.

6. Warranty

Neptec warrants each Product(s) unit purchased by You against defects in workmanship and materials for a period of one (1) year after the date of delivery to You. This warranty does not apply to any non-conformance with the foregoing warranty that was caused by any neglect, misuse, improper installation, accident or unauthorized repair or attempted repair by anyone other than Neptec or its authorized representative(s). You shall be responsible for all shipping costs to or from Neptec or the location to which You are directed by Neptec to ship any Product. Replacement Product(s) may consist of both new and used components. All Product(s) that are replaced becomes the property of Neptec. No Product(s) may be returned to Neptec without a Return Merchandize Authorization (an "RMA") number. Prior to return of any Product(s) to Neptec for any reason, You shall first request an RMA number from Neptec (which may be requested through any telephone numbers or email addresses provided by Neptec to You for this purpose) and advise Neptec of the quantity, serial number(s), original purchase order number(s), and shall provide a detailed reason for such Product(s) return. Neptec will accept warranty returns only after an RMA number is issued by authorized Neptec personnel for the return of such Product(s). Unauthorized Product returns, or Product returns that fail to display the appropriate RMA number, shall be subject to reshipment to You, freight collect. Within thirty (30) days of receiving Product(s) returned under warranty, Neptec shall assess the returned Product(s) and provide a response. Where the warranty claim is valid, Neptec shall, within sixty (60) days of the return of the applicable Product, repair or replace the Product or issue a credit to You for the purchase price of such Product.

7. Disclaimer of Implied Warranties

EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THE SECTION ENTITLED "WARRANTY", NEPTEC MAKES NO OTHER REPRESENTATIONS AND PROVIDES NO OTHER WARRANTIES OR CONDITIONS. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THE SECTION ENTITLED "WARRANTY", NEPTEC DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, EITHER EXPRESS, IMPLIED, STATUTORY, BY USAGE OF TRADE, COURSE OF DEALING, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, NON-INFRINGEMENT, TITLE, QUIET ENJOYMENT, DURABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. Limitation of Liability

IN NO EVENT SHALL NEPTEC (INCLUDING ITS AFFILIATES, SUBCONTRACTORS, AGENTS, LICENSORS, SUPPLIERS, DIRECTORS OR EMPLOYEES) BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, RELIANCE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, PROPERTY DAMAGE, LOST SAVINGS OR OTHER SIMILAR PECUNIARY LOSS) WHETHER ARISING FROM CONTRACT (INCLUDING FUNDAMENTAL BREACH), TORT (INCLUDING NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY. IN NO EVENT SHALL NEPTEC'S (INCLUDING ITS AFFILIATES, SUBCONTRACTORS, AGENTS, LICENSORS, SUPPLIERS, DIRECTORS OR EMPLOYEES) LIABILITY UNDER THESE TERMS TO YOU, REGARDLESS OF THE BASIS OF LIABILITY OR THE FORM OF ACTION (INCLUDING FUNDAMENTAL BREACH, TORT,

NEGLIGENCE, MISREPRESENTATION, OR OTHER CONTRACTUAL OR TORT CLAIM), EXCEED TOTAL PAYMENTS MADE BY YOU TO NEPTEC FOR THE PRODUCT(S) DIRECTLY RELATED TO ANY ACTION BROUGHT BY YOU. Every right, exemption from liability, release, defence, immunity and waiver of whatsoever nature applicable to Neptec under this Agreement shall also be available and shall extend to benefit and to protect Neptec's officers, directors, and employees and for such purposes Neptec is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of such persons.

9. Licenses/Intellectual Property

If and to the extent that any of the Product(s) contain any software and/or firmware, You are authorized to use such software and/or firmware in accordance with the terms and subject to the conditions specified in the end-user license for such software and/or firmware. You may not use any software and/or firmware provided with any Product separately from such Product. You shall not reproduce, modify, reverse engineer, decompile, disassemble, or create derivative works based upon any software and/or firmware furnished with any of the Product(s) without Neptec's prior written consent. You acknowledge and agree that You do not acquire any ownership or other proprietary rights in any software and/or firmware embodied in any of the Product(s) by virtue of any rights granted to You in respect to such software and/or firmware. The rights and licenses granted under these Terms are only as expressly set forth in these Terms. No other license or right is or shall be deemed to be granted, whether by implication, estoppel, inference or otherwise, by or as a result of these Terms or any conduct of either party under these Terms.

10. Force Majeure

Neptec shall not be responsible for its failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including but not limited to acts of God, wars, terrorism, riots, embargoes, acts of civil or military authorities, weather, fires, floods, accidents, power failures, strikes, picketing, default by common carriers or failure to perform by manufacturers or suppliers.

11. General

These Terms are the entire agreement between You and Neptec in respect to the purchase by you of any Product(s) from Neptec, superseding any other agreements or discussions, oral or written, and may not be changed except by a written agreement with Neptec. You may not assign your rights or obligations under these Terms whether voluntarily, by operation of law, or otherwise without Neptec's prior written consent. Neptec may assign these Terms at any time without notice. The failure of Neptec to claim a breach of any provision of these Terms shall not constitute a waiver of such breach or the right of Neptec to enforce any subsequent breach of such provision. If any provision of these Terms is held to be unenforceable or illegal, such decision shall not affect the validity or enforceability of such provisions under other circumstances or the remaining provisions of these Terms and such remaining provisions shall be reformed only to the extent necessary to make them enforceable under such circumstances. Nothing contained in these Terms shall be deemed to constitute either party or any of its representatives the partner, agent, franchisee, or legal representative of the other party. These Terms shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. No choice or conflict of laws rules of any jurisdiction shall apply to these Terms. You shall only be entitled to bring any action or proceeding arising out of or relating to these Terms or the Product(s) in a court in Ottawa, Ontario, Canada, and You consent to the jurisdiction of such courts for any such action or proceeding. You waive all rights that You may have or that may hereafter arise to contest such jurisdiction of such courts for any action or proceeding brought by You. You hereby waive any right You may have to request a jury trial with respect to any action brought by You in connection with these Terms or the Product(s). The application of the United Nations Convention on Contracts for the International Sale of Goods to these Terms is expressly excluded. The parties agree that these Terms shall be fairly interpreted in accordance with their terms without any strict construction in favor of or against either party and that ambiguities shall not be interpreted against the party that drafted the relevant language.