

The Trusted Source for Quality Systems

1. CONTRACT – Unless otherwise stated, all sales transactions are expressly subject to these terms and conditions. Modification or additions will be recognized only if accepted in writing by an officer or approved agent of **Imtra Corporation** (hereinafter referred to as the "Company"), or an officially designated representative. Provisions of Buyer's Purchase Order or other documents that add to, or differ from, these Terms & Conditions are **EXPRESSLY** rejected. No waiver of these Terms & Conditions or acceptance of others shall be construed as failure of the Company to raise objections.

2. QUOTATIONS AND PRICES – Quotations automatically expire thirty (30) calendar days from the date issued unless otherwise stated in the quotation and are subject to withdrawal by notice within that period. The Company reserves the right to extend such quotation up to ninety (90) days from the date of issuance. Prices shown on the published price lists and other published literature issued by the Company are not unconditional offers to sell and are subject to change without notice. The Company's prices for products or services, unless otherwise specified, do not include an allowance for installation and/or final on-site adjustment. Prices shall be subject to adjustment to those prices in effect at time of shipment. All custom orders may be subject to special payment terms.

3. TAXES – The Company's prices do not include any applicable sales, goods and services, use, excise or similar taxes and the amount of any such tax which the Company may be required to pay or collect will be added to each invoice and paid by the Buyer unless the Buyer has furnished the Company with a valid tax exemption certificate acceptable to the taxing authorities prior to shipment. If, upon subsequent sales, use, excise, or similar tax audit, an exemption certificate provided to the Company by Buyer is, through no fault of the Company, determined to be invalid, the Company will attempt to acquire a valid exemption certificate, notarized affidavit of exempt use or other necessary documentation from Buyer. If Buyer fails to furnish a valid exemption certificate, notarized affidavit or other necessary documentation, in a timely manner the previously unpaid sales, use or similar excise tax will be billed to and paid by the Buyer.

4. TERMS OF PAYMENT – All custom orders may be subject to special payment terms. Unless explicitly agreed to elsewhere in writing, terms for standard product sales are full payment, net 30 days from date of invoice. Amounts past due are subject to a service charge of the greater of 1.5% per month (or fraction thereof) or maximum rate permitted by law. If the Company deems that, by reason of the financial condition of the Buyer or otherwise, the continuance of production or shipment on the terms specified is not justified, the Company may require full or partial payment in advance of shipment. **Subject to the warranties expressly stated in (11) below, all sales are final without right of return.**

5. DELIVERY – Delivery dates indicated in the contract documents are approximate and are based on prompt receipt of payment for all prior shipments and receipt of all necessary information regarding the product or service covered by the contract. The Company will use reasonable efforts to meet the indicated delivery dates but, cannot be held responsible for its failure to do so. Title to the equipment and risk of loss shall pass to Buyer at Company's site (FOB Shipping Point) upon delivery to a carrier. In the event of any delay in delivery caused by the Buyer, the Company will store and handle all items ordered at the Buyer's risk and reserves the right to invoice the Buyer for the unpaid portion of the contract price, plus storage, insurance and handling charges on or after the date which the equipment is ready for delivery. The invoice will be payable in-full within thirty (30) days from the invoice date. The Company has the right to make partial shipments and bill for those shipments; the Buyer will make payment in accordance with terms referenced in (4) above.

6. SHIPPING AND HANDLING CHARGES – Shipments are F.O.B. Point of Shipment. Unless the Buyer elects a freight collect shipment, shipping charges plus the applicable Company handling charge will be prepaid and billed as a separate item on the invoice.

7. CHANGES – Buyer may, with the express written consent of the Company, make changes in the specifications for products or services covered by the contract. In such event, the contract price and delivery dates shall be equitably adjusted. The Company shall be entitled to payment for reasonable profit plus costs and expenses incurred by it for work and materials rendered unnecessary because of such changes and for work and materials required to effect said changes.

8. CANCELLATION – Undelivered parts of any order may be cancelled by the Buyer only with the written approval of the Company. If the Buyer makes an assignment for the benefit of creditors or, if the Company, for any reason, feels insecure about the Buyer's willingness or ability to perform, the Company shall have the unconditional right to cancel this sales transaction or demand full or partial payment in advance pursuant to (4) above. **In the event of any cancellation of this order by either party, the Buyer shall pay to the Company the reasonable costs and expenses (including engineering expenses and all commitments to its suppliers and subcontractors) incurred by the Company prior to receipt of notice of such cancellations, plus the Company's usual rate of profit for similar work. The minimum cancellation charge shall be 25% of the contract price.**

9. SECURITY INTEREST – Buyer agrees to pay for the products or services according to the Company's payment terms and does hereby grant to the Company a purchase money security interest in the products until it is fully paid. Buyer will assist the Company in taking the necessary action to perfect and protect the Company's security interest. In the event of a default by Buyer, the Company shall be entitled to any of the rights and remedies provided by law or in equity, including, but not limited to, repossession of the products.

10. DEFAULT – Upon default and placing of the Buyer's account for collection or repossession of equipment, the Buyer agrees to reimburse collection cost, legal fees and court cost incurred by the Company in connection therewith.

11. WARRANTIES: COMPANY EXPRESSLY WARRANTS THE PRODUCTS ONLY AS SET FORTH HEREIN. COMPANY MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN ADDITION, THE FOLLOWING SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDIES OF BUYER FOR ANY BREACH BY COMPANY OF ITS WARRANTY HEREUNDER.

A. PRODUCTS – The Company warrants that all products sold by the Company and covered by this warranty will be free from defects in workmanship and materials for a period of twelve (12) months from date of original shipment to the original Buyer. Some products not manufactured by the Company may have shorter or longer warranty periods. Consumable items are warranted for a period of six (6) months from date of original shipment when used under normal operating conditions.

B. REPAIRED PRODUCTS WARRANTY – Warranty coverage on repaired equipment shall be so noted at time of repair as determined by type of repair required, however, it shall only apply to parts repaired or replaced by the Company. No separate warranty shall apply to repaired equipment as a whole or, to parts not repaired or replaced by the Company.

C. GENERAL – The foregoing warranties are further subject to the following general conditions: 1) If the Buyer requests the performance of warranty work provided for under the foregoing warranties during other than normal Company work periods, the Buyer shall be required to pay for all premium time. 2) These warranties shall not apply where the Company's equipment has been subjected to: accident, alteration, misuse, abuse, failure on the part of the Buyer to ensure proper storage, operation and/or maintenance, installation or servicing by other than Company authorized personnel, the addition or supply of equipment not approved for incorporation into the Company's product. 3) Products of other manufacturers sold by the Company, as such, are warranted by the Company only to the extent of any remaining warranty provided by the original manufacturer.

12. PATENT INFRINGEMENT – The Company shall defend any suit or proceeding brought against the Buyer so far as the same is based on a claim that any product of the Company's design furnished hereunder, or any part thereof, constitutes an infringement of any United States patent. If notified promptly in writing and given authority, information and assistance (at the Company's expense) for the defense of the same and if such alleged infringement is not the result of a design or other special requirement specified by the Buyer or the result of the application or the use to which such equipment is put by the Buyer or others. The Company will pay all damages and costs awarded in such suit or proceeding against the Buyer provided that the Company shall have the sole and exclusive right to defend, settle or compromise any suit or proceedings and the Buyer takes no action that would materially detract from the Company's ability to conduct an effective defense, settlement or compromise. In case such product or part in such suit held to infringe any such patent and the use thereof is enjoined, the Company shall at its expense either, at its option; (a) obtain for the Buyer the right to continue using such equipment or part or; (b) replace the same with non-infringing equipment, or; (c) modify the same so that it becomes non-infringing or; (d) remove said product and refund the purchase price and the transportation costs thereof. The foregoing states the entire liability of the Company to the Buyer for patent infringement.

13. REGULATORY LAWS AND OR STANDARDS – The performance of the parties hereto is subject to the applicable laws of the United States and will depend on the location of delivery of the product or service. The Company takes reasonable steps to keep its products in conformity with various nationally and internationally recognized standards and such regulations which may affect its products. The Company recognizes that its products are utilized in many regulated applications and that from time to time standards and regulations conflict with each other. The Company makes no promise or representation that its product will conform to any federal, provincial, state or local laws, ordinances, regulations, codes or standards

except as particularly specified and agreed upon for compliance, in writing, as a part of the contract between Buyer and the Company. The Company prices do not include the cost of any related inspections or permits or inspection fees.

14. INTELLECTUAL PROPERTY – The sale and delivery of the Company's products and/or software to Buyer shall in no way transfer to Buyer any right of ownership in any patents, copyrights, trademarks, technologies, designs, specifications, drawings or other intellectual property incorporated into the product and/or software.

15. DISCLAIMER OF DAMAGES – IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY TYPE OF SPECIAL CONSEQUENTIAL, INDIRECT, INCIDENTAL OR PENAL DAMAGES, WHETHER SUCH DAMAGES ARISE OUT OF OR ARE A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. Such damages shall include, but not be limited to, loss of profits or revenues, loss of use of the equipment or associated equipment, cost of substitute equipment, facilities, down time costs, increased construction costs or claims of Buyer's customers or contractors for such damages. Buyer agrees that in the event of a transfer, assignment, or lease of the equipment sold hereunder Buyer shall secure for the Company the protection afforded to it in this paragraph.

16. LIMITATION OF LIABILITY – The Company shall not be liable for any loss, claim, expense or damage caused by, contributed to or arising out of the acts or omissions of Buyer or third parties, whether negligent or otherwise. In no event shall the Company's liability for any cause of action whatsoever exceed the cost of the item giving rise to the claim, whether based in contract, warranty, indemnity, or tort (including negligence). Any suit arising hereunder must be commenced within one (1) year from the date in which the cause of action accrues. Except as provided in Article 12, the Company shall not indemnify any party.

17. NO RESPONSIBILITY FOR GRATUITOUS INFORMATION OR ASSISTANCE – If Company provides Buyer with assistance or advice which concerns any parts, products, service supplied hereunder or any system or equipment in which any such part, product or service may be installed, and which is not required pursuant hereto, the furnishing of such assistance or advice shall not subject Company to any liability, whether based in contract warranty, tort (including negligence) or otherwise.

18. INTERPRETATION – Should any term or provision contained in the contract contravene or be invalid under applicable law, the contract shall not fail by reason thereof but shall be construed in the same manner as if such term or provision had not appeared therein.

19. CONFIDENTIAL INFORMATION; OWNERSHIP OF DOCUMENTS AND MATERIALS – Buyer will treat as confidential and not disclose any information received from Company in connection with the Purchase & Sale Agreement to any person not authorized by Company in writing to receive it. Company and Buyer will use such information only as necessary to fulfil its obligations under the Purchase & Sale Agreement. Upon termination of the Purchase & Sale Agreement, all such information will be returned to Company, or at Company's option, destroyed by Buyer. Company or Buyer will not make any announcement or release any information concerning the Purchase & Sale Agreement to any other person or entity, including the press or any official body, except as required by law, unless prior written consent is obtained from the other party in the agreement.

20. INTERNATIONAL SALES – Buyer warrants that it will not cause the goods sold hereunder to be shipped to, or resold for shipment to, any country where the shipment of goods is barred by United States export regulations.

21. APPLICABLE LAW – This agreement shall be governed by and construed in accordance with the provisions of the Uniform Commercial Code of the United States of America adopted by the Commonwealth of Massachusetts, United States of America.