

## FLINTEC, INC.

The following Terms and Conditions ("Terms and Conditions") shall apply to all sales of equipment and goods ("Products") made by Flintec, Inc. ("Flintec") to the customer ("Purchaser") described in the attached Sales Order. All such sales are expressly limited and conditioned upon acceptance of these Terms and Conditions, and no provision, printed or otherwise, contained in any order, acceptance, confirmation, acknowledgment or other agreement which is inconsistent with, different from, or in addition to these Terms and Conditions is accepted by Flintec unless specifically agreed to in writing by Flintec. Purchaser acknowledges that it has read and understands these Terms and Conditions and agrees to be bound by them.

### 1. Delivery Dates

**a.** All delivery and shipment dates indicated on the attached Sales Order are approximate and subject to Flintec's availability schedule. Flintec will make reasonable efforts to meet the delivery dates(s) quoted. However, Flintec will not be liable for its failure to meet the quoted delivery dates, or for any delay in performance hereunder due to unforeseen circumstances or shortages, due to causes beyond its reasonable control, or due to its voluntary or mandatory compliance with any governmental act, regulation, or request. If by reasons of such circumstances, Flintec's supplies of the Product(s) covered hereby are limited, Flintec shall have the right to prorate the available supply among its customers in such manner as it, in its sole discretion, determines. Purchaser must accept delivery of all Products within one year of the date of the Sales Order.

**b. Cancellation and Rescheduling Charges.** Purchaser agrees to pay to Flintec a cancellation charge in the event Purchaser: 1) cancels any order or portion thereof, 2) fails to meet any obligation causing cancellation. Such charges will be computed based on net invoice price as follows:

**(i) Standard Products.** Twenty (20) percent will be charged on all order cancellations occurring at least thirty (30) days prior to scheduled shipment; thirty-five (35) percent will be charged for system cancellations occurring within thirty (30) days of the scheduled shipment date.

**(ii) Custom Products.** Cancellation charges for orders involving custom or "special" Products will be one hundred (100) percent unless otherwise stated in the attached Sales Order.

**2. Packing and Loss or Damage in Transit.** Product(s) will be packed for shipment in a manner suitable to the method of shipment specified by Purchaser, or to the method selected by Flintec in the absence of instructions. Unless otherwise indicated on the face hereof, all sales hereunder are F.O.B. origin, freight collect, and all risk or loss or damage to Products in transit is upon the Purchaser. Payment will be made in accordance with Paragraph 4 below.

**3. Inspection, Acceptance and Return of Goods.** Purchaser shall inspect the Product(s) immediately on its arrival and shall within five (5) days of its arrival give written notice to the Flintec of any claim for shortage or that a Product does not conform to the terms of the attached Sales Order. If Purchaser shall fail to give such notice, the Product(s) shall be deemed accepted and to conform with the terms of the attached Sales Order, and Purchaser shall be bound to pay for the Product(s) in accordance with the terms of Paragraph 4 below. Return of goods, defective or otherwise, will not be accepted by Flintec unless they are shipped F.O.B. destination, freight prepaid, with prior written authorization by Flintec. When return of non-conforming goods has been accepted, conforming shipment may be made in accordance with Paragraph 1 above and Paragraph 6 below without further liability on Flintec's part. Flintec will ship Product(s) which equal or exceed quoted specifications when engineering changes occur after order acceptance.

**4. Payment and Credit Terms.** Unless otherwise indicated on the attached Sales Order, terms of payment for all shipments, including shipments of any portion of the Product(s) ordered, shall be net thirty (30) days from the date of the invoice, and such payment shall be made in U.S. dollars to the address provided on the face of Flintec's invoice. When payment in full is not so remitted, Purchaser shall be delinquent and agrees to pay interest at a rate of 1.5% per month on the net, unpaid invoiced amount. In the event Flintec finds it necessary to refer this matter to an attorney or an agent for collection of delinquent accounts, Purchaser shall pay all costs of collection including reasonable attorney's fees and court costs. Purchaser agrees that Flintec shall retain a security interest in the Product(s) sold hereunder to secure any portion of the price not paid on delivery and will, on request, execute a security agreement in such form as is required by Flintec, which, at Flintec's option, may be filed with appropriate local and state authorities. Flintec reserves the right to change the credit terms provided herein when, in the Flintec's opinion, the financial condition or previous payment record of Purchaser so warrants. Should Purchaser become delinquent in the payment of any sum due hereunder, Flintec will not be obligated to continue performance.

**5. Taxes.** Purchaser is responsible for the ultimate payment of all taxes which may be assessed or levied on or on account of Product(s) sold hereunder to Purchaser whether termed a gross receipts tax, use tax, property tax, sales tax, value added tax, goods and services taxes, or otherwise (except for taxes on Flintec's income). When Purchaser claims that this transaction is not subject to any such tax, that Purchaser is exempt, or that Flintec is not required to collect such tax, Purchaser agrees to provide Flintec with any documentation necessary to support such a claim and to allow Flintec to document its decision not to collect any tax(es).

### 6. Limited Warranty

**a. Basic Warranty.** The Flintec warrants to Purchaser that the Product(s) sold hereunder, is at the time of shipment to Purchaser from Flintec, free from defects in material and workmanship. As Purchaser's sole exclusive remedy under this warranty Flintec agrees either to repair or replace, at Flintec's sole option and free of charge to Purchaser, any part or parts of such Product(s) which under proper and normal conditions of use prove to be defective within twelve (12) months from the date of shipment.

### b. Exclusions and Limitations

**(i)** This warranty does not cover loss, damage, or defects resulting from transportation to the Purchaser's facility, improper or inadequate maintenance by Purchaser, Purchaser-supplied software or interfacing, unauthorized modification or alteration, misuse, mishandling, neglect, operation outside of the environmental specifications for the Product(s) or improper site preparation and maintenance.

**(ii)** The Product(s) sold by Flintec hereunder are not intended for use in any nuclear, chemical or weapons production facility or activity, aircraft control devices, aerospace equipment, central trunk data transmission (communication) devices or medical life support equipment or any other activity where failure of the product could lead directly to death, personal injury or severe physical or environmental damage. If so used, Flintec and its affiliates disclaim all liability for any damage arising as a result of the hazardous nature of the business in question, and Purchaser shall indemnify, hold harmless and defend Flintec agents against all such liability, regardless of legal theory and regardless of whether Flintec had knowledge of the possibility of such damage.

## TERMS AND CONDITIONS

### c. Product Service

**(i)** All claims under the warranty must be brought to the attention of Flintec within thirty (30) days of the failure to perform.

**(ii)** Flintec at their option may require the product to be returned to the factory, transportation prepaid, for repair.

**d. Refund of Purchase Price.** In lieu of the foregoing, Flintec may at anytime elect, in its sole discretion, to discharge its warranty by accepting the return of such Product(s) and refunding any portion of the purchase price paid by Purchaser.

**e. Software and Firmware Products.** The sole exclusive warranty applicable to software and firmware products provided by Flintec for use with a processor will be as follows: Flintec warrants that such software and firmware will conform to Flintec's program manuals current at the time of shipment to Purchaser when properly installed on that processor. Flintec does not warrant that the operation of the processor software or firmware will be uninterrupted or error-free.

EXCEPT AND ONLY TO THE EXTENT EXPLICITLY PROVIDED IN THESE TERMS AND CONDITIONS, THE PRODUCT(S) PROVIDED BY FLINTEC OR ITS SUPPLIERS OR LICENSORS ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OUT OF A COURSE OF DEALING OR USAGE, TRADE OR OTHERWISE, INCLUDING ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE OR NONINFRINGEMENT. FLINTEC NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR FLINTEC ANY OTHER LIABILITIES IN CONNECTION WITH THE SALE OF SAID PRODUCT(S).

**8. Exclusive Remedies; Limitation of Liability.** THE REMEDIES PROVIDED HEREIN ARE SOLE AND EXCLUSIVE REMEDIES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, FLINTEC SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT, TORT, OR OTHER LEGAL THEORY ARISING OUT OF SALE, INSTALLATION, SERVICE OR USE OF ITS PRODUCT(S). FLINTEC NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION, SERVICE, OR USE OF ITS PRODUCT(S).

**9. Indemnity.** The Purchaser will indemnify, hold harmless and defend Flintec against all claims for damages or profits arising from infringement of patents, designs, copyrights, trademarks, or other intellectual property rights with respect to all goods manufactured, either in whole or part, to the Purchaser's specification.

**10. Modification/Controlling Terms of Contract.** All orders are shipped on the basis of these Terms and Conditions stated herein and on the applicable Sales Order. Where the terms and conditions stated in Purchaser's purchase order vary from these Terms and Conditions, these Terms and Conditions shall control. Any modification of these Terms and Conditions must be expressly agreed to in writing and signed by an authorized representative of each of Flintec and Purchaser.

### 11. Miscellaneous

**a. Applicable Laws.** This contract shall be construed in accordance with the laws of the Commonwealth of Massachusetts, U.S.A., without giving effect to conflict of laws provisions. The U.N. convention on Contracts for the International Sale of Goods shall not apply to these Terms and Conditions. Any dispute, claim or controversy arising out of, or related to, these Terms and Conditions shall have exclusive venue in the state and/or Federal courts located in the Commonwealth of Massachusetts. Purchaser hereby irrevocably consents to the personal jurisdiction of those courts for such purposes.

**b. Entire Agreement; Amendments.** These Terms and Conditions, together with the attached Sales Order, is the complete and exclusive statement of the agreement between the parties and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter hereof. No amendment or modification to these Terms and Conditions shall be binding upon Flintec unless made in a writing signed by a duly authorized agent of both Flintec and Purchaser.

**c. Severability.** If any provision of these Terms and Conditions shall be ruled unenforceable, then the remainder shall be enforced to the extent permissible.

**d. Copyrighted Programming Material (Software).** Flintec licenses certain items of copyrighted programming material (software) for use in conjunction with its Product(s). Said agreement will govern the parties' mutual rights and responsibilities in and to said copyrighted materials. All prices indicated on the attached Sales Order with respect to such copyrighted materials shall be deemed license fees. Unless otherwise specified, Flintec's copyrighted material (software, firmware, and printed documentation) may not be copied except for archive purposes, to replace a defective copy, or for program error verification by Purchaser.

**e. Computer Software License.** Computer software provided with this order, including any subsequent improvements or updates, is furnished to Licensee under a license for use with a single system. Purchaser shall not provide or otherwise make available the Software, or any part thereof, or any copies thereof, in any form to any third party.

**f. Confidential Data and Information.** All hardware and software, drawings, diagrams, manuals, specifications and other materials furnished by Flintec relating to the use and service of the Product(s) furnished hereunder have been developed at great expense and are considered to be trade secrets and proprietary to Flintec. Purchaser may not reproduce in any way such hardware, software, diagrams, drawings, manuals, specifications and other materials. All documents and/or materials aforementioned supplied directly by Flintec (except information as may be established to already be in the public domain) shall be received in confidence by Purchaser, and Purchaser will take every precaution to protect the confidentiality of such information, and shall not use or disclose such information for any purpose other than to install, operate and maintain the Product(s) supplied hereunder.

**g. Assignment.** Any attempt by Purchaser to assign, transfer, or delegate any of the rights, duties, or obligations herein shall render such attempted assignment or transfer null and void.

**h. Non-Waiver.** Flintec's failure to exercise any of its rights shall not constitute or be deemed a waiver or forfeiture of such rights.

**i. Export Controls.** Any Product(s) or technical data supplied by Flintec under these Terms and Conditions are subject to the U.S. Export Administration Act and regulations thereunder, which includes the licensing of certain products. It is the responsibility of Purchaser and any exporter contracted/used by Purchaser to comply with such act and regulations. Purchaser certifies that it will not export or re-export the product and/or technical data furnished thereunder, unless it fully complies with all laws and regulations of the United States, including but not limited to such act and regulations.