



## TERMS AND CONDITIONS OF PURCHASE

### 1. Acceptance of Order.

The Vendor shall be deemed to have fully accepted and agreed to all of the terms and conditions of a Purchase Order (the "Order") by either (i) delivering or beginning production of any portion of the goods or services ordered (the "Goods") to TRANSBOTICS, a division of Scott Systems International Incorporated, (the "Buyer"), or (ii) failing to notify the Buyer within a reasonable time after receipt of an Order (and prior to beginning production or shipment) that the Vendor refuses to be bound by the terms herein. No additional or different terms contained in a purchase order acknowledgment or similar document shall be valid without the express written assent of an officer or authorized buying agent of the Buyer.

### 2. Taxes.

The net prices specified herein include all federal, state and local sales, use, employment, income, excise, or other taxes, and the Buyer shall not be required to pay the Vendor any amount other or greater than the purchase price on the face hereof.

### 3. Packing, Shipment, and Delivery.

Delivery of the Goods shall not be deemed made to the Buyer and no liability shall be imposed upon the Buyer, unless and until the Goods, in precise conformity to the specifications and instructions of the Order (including, but not limited to, specifications and instructions relating to kind, quantity, quality, assortment, labeling, and packaging, delivery, shipping, routing, and conformity to sample), shall have been either (i) delivered to the Buyer's designated carrier, or (ii) physically received by the Buyer at the time(s) and place(s) designated herein.

Deliveries shall be made as specified on the Order, without charge for boxing, crating, carting, or storage, unless otherwise specified; and the Goods shall be suitably packed and, if applicable, consolidated to secure lowest transportation costs and in accordance with the requirements of the Buyer and common carriers. The Goods shall be packed by the Vendor to insure against damage from weather or transportation. The Buyer's order numbers and symbols must be plainly marked on all invoices, packages, bills of lading, and shipping orders. A packing list shall accompany each box or package shipped, showing the Buyer's order number and symbol, item number, and description of the Goods; the Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists. Bills of lading shall immediately be sent to the Buyer's purchasing department on the date the Goods are shipped. Invoices shall be mailed in duplicate to the attention of the Buyer's accounting department.

Except as herein specified, delivery shall be strictly in accordance with the Buyer's delivery schedule. If the Vendor's deliveries fail to meet the schedule specified by the Buyer, the Vendor shall, at its expense, upon the request of the Buyer and without in any way limiting the Buyer's rights and remedies for any such delay in deliver, ship the Goods by express shipment, and the Vendor will pay the difference between regular freight and express rates. Invoices covering Goods shipped in advance of the date set forth in the Buyer's delivery schedule will not be paid, unless otherwise agreed, until their normal maturity after the date specified for delivery. The Vendor will be responsible for any warehouse costs, which the Buyer may incur by reason thereof.

Vendor shall bear all risk of loss with respect to domestically -sourced Goods until Buyer actually receives and accepts the Goods. Buyer shall have the right to inspect and test the Goods at its facility and at its customer's job site before accepting them.

### 4. Acceptance of Goods by the Buyer.

Acceptance of the Goods by the Buyer shall not occur until such Goods have been fully inspected by the Buyer. Acceptance by the Buyer may take place at any reasonable time after physical delivery of the Goods to the Buyer, and no reasonable delay in returning the Goods shall be deemed an acceptance of them or a waiver of the Buyer's right to return them for any cause hereunder. The Buyer shall have the right to accept any part of the Goods, notwithstanding that it may reject the balance for any cause hereunder. Acceptance by the Buyer of all or any part of the Goods shall not constitute a waiver of any claim which the Buyer may have regarding the Goods, either on account of delay in delivery, or on account of any other cause, or for any remedy whatsoever.

### 5. Non-conforming Goods.

All Goods not in conformity with the Buyer's specifications, or delivered contrary to the Buyer's instructions, or in excess of the quantity provided herein, may be rejected by the Buyer and returned to the Vendor, or held at the Vendor's risk and expense. In the event any Goods are returned by the Buyer for any cause, the Vendor shall pay to the Buyer immediately; (i) any prepayments which the Buyer has made for the goods returned; (ii) the cost of storing the Goods prior to returning (whether on the Buyer's property or elsewhere); (iii) the cost of returning the Goods (by whatever reasonable means the Buyer determines); and (iv) all other expenses incurred by the Buyer in connection therewith.

### 6. Warranties

Vendor represents and warrants to Buyer that Vendor shall deliver to Buyer good and marketable title to the Goods free and clear of all liens, claims, encumbrances and defects of title. In addition, to all warranties provided by law, the Vendor represents and warrants that the Goods, when delivered, shall be new, merchantable, fit for their intended purpose, free from defects in design, material and workmanship; and safe for any purpose for which it is reasonably foreseeable that they will be used by the Buyer, and if applicable, the Vendor expressly warrants that all articles, material, and workmanship will conform with applicable drawings, specifications, samples, and/or other descriptions given to the Vendor. These warranties shall survive any delivery, inspection, acceptance, or payment of Goods. Vendor shall repair or replace without additional charge any Goods which, within twelve months after acceptance, fail to conform to the requirements of the Order.

### 7. Material and Equipment Furnished by the Buyer



Unless otherwise specified in writing, the Vendor is to supply all materials and equipment required to execute the Order. Unless otherwise specified in writing, any material or equipment which the Buyer may furnish will be on consignment. The Vendor agrees to maintain the Buyer's material and equipment in good order and repair, subject to reasonable wear and tear, and shall pay the Buyer for such material or equipment damaged while in the Vendor's possession or control or not otherwise satisfactorily accounted for. All material and equipment furnished by the Buyer shall be protected against loss or damage by insurance secured by the Vendor, at its expense and acceptable to the Buyer. Vendor shall provide evidence of such insurance by providing Buyer with a Certificate of Insurance naming Buyer as a loss payee.

8. Changes in Drawings and/or Specifications.

The Buyer reserves the right to make changes at any time to any of the drawings or specifications relating to the Order. If any change causes a substantial variation in the cost of furnishing the Goods covered hereby, the price of such Goods shall be equitably adjusted by agreement of the Buyer and the Vendor. After acceptance of each Order, the Order cannot be modified or amended by the Vendor without the prior written authorization of an officer or authorized buying agent of the Buyer.

9. Intellectual Property and Confidentiality.

The intellectual property in all inventions and deliverable first created or reduced to a tangible medium of expression pursuant to an Order, including all copyright in all reports, documents, designs, software and other works of authorship, shall belong exclusively to Buyer, and Vendor shall execute and deliver all such instruments of conveyance or assignment as may be necessary or desirable to record or perfect Buyer's ownership and title therein. To the extent Vendor is not the owner of such intellectual property or such intellectual property was not first created or reduced to a tangible medium of expression pursuant to the Order, Vendor grants to Buyer to the extent of its ownership, an irrevocable, royalty-free, world-wide license and right, to use, modify, copy for its own use or the use of its customer, create derivative works from and distribute to its customer for its own use the copy of the work of authorship delivered or conveyed to it pursuant to the Order.

All proprietary information provided by Buyer to Vendor, including all information designated by Buyer as confidential and all specifications, designs, software, requirements, interfaces, identity of Buyer's customer and similar information (whether or not so designated) shall be kept confidential by Vendor using means no less restrictive than those adopted by Vendor to protect the confidentiality of its own confidential information and in no case less than reasonable and neither used nor disclosed by Vendor except to fulfill Vendor's obligations to Buyer under the Order. Vendor shall not use Buyer's name or the fact that Vendor is selling Goods or providing Services to Buyer in any press release or advertising

10. Indemnification.

The Vendor hereby agrees to indemnify and hold the Buyer, its customer and their respective subsidiaries, affiliates, directors, agents and employees harmless against all liabilities, losses, damages, costs, and expenses (including, without limitation, consequential damages and reasonable professional fees) related to or arising out of; (i) imperfect workmanship or construction of any such Goods or their containers; (ii) imperfect material, adulteration, or foreign matter in any Goods purchased hereunder, (iii) any patent, trademark, trade name, copyright, or other litigation or threatened litigation of any kind (including expressly, but without limitation, actions for unfair competition or based on fair trade laws) in connection with any of the Goods (except those wherein at issue is a mark or name that is exclusively of record the Buyer's or that is affixed pursuant to the Buyer's express specification and direction, and that has not been represented by the Vendor as available by the Buyer's use); (iv) any breach or alleged breach of any representation, covenant, or warranty of the Vendor herein contained, or any actual or alleged dishonesty or negligence, or any act of omission or commission of the Vendor in connection herewith; (v) any injury to persons or property related to, or arising out of the failure or defectiveness in the design or manufacture of the Goods or the failure to adequately warn of such defects or other risks of the Goods; and (vi) any action, claim, suit or prosecution, or threat of same brought against Buyer, its employees, owners, directors or agents, alleging any of the foregoing. The Buyer shall have the right to control the conduct of any litigation instituted against it, as well as any settlement thereof, or of any threatened litigation, without affecting or reducing the Buyer's right to be indemnified by the Vendor hereunder. The Vendor and the Buyer each hereby agree to promptly notify the other of any action, suit, threat, or claim of any kind or nature described in this paragraph of which it obtains actual knowledge, and the Vendor agrees to assist in the defense of any suit, threat, or claim of action brought against the Buyer or the Buyer's vendees for reasons set forth in this paragraph.

11. Compliance with Laws.

The Vendor represents and guarantees that in furnishing the articles, materials, or services covered by the Order, that the Vendor shall comply with all applicable state, federal, and local laws, rules and regulations, and will indemnify the Buyer against liability for any failure to do so, and shall furnish the Buyer a certification to such effect as may be required.

12. Advertising.

The Vendor shall not, without first obtaining the written consent of the Buyer, in any manner, advertise or publish the fact that the Vendor has furnished or contracted to furnish to the Buyer the Goods herein mentioned.

13. Buyer-Designed Criteria.

When Goods are made pursuant to the Buyer's specifications, such specifications shall not be used by the Vendor in any manner for itself or any other party without the prior written consent of the Buyer.

14. Chemicals.

In the event that the Goods being purchased hereunder are a chemical substance or mixture, the Vendor hereby agrees to furnish the Buyer (i) a material safety data sheet for the chemical, (ii) the CAS name and number of the chemical substance, or the items composing a mixture, and (iii) a certificate that the chemical has been registered with the Environmental Protection Agency in accordance with, and compliance with the requirements of the Toxic Substance Control Act, as amended, and such regulations, as amended, as have been issued to implement the Act.

15. Pricing.

The Vendor warrants that the prices named herein are as low as any net prices now given by the Vendor to any other customer for like Goods in the quantities ordered, and the Vendor agrees that if at any time during the life of this Order, the Vendor quotes or sells similar Goods at lower net prices, such lower net prices shall from that time be substituted for the prices named herein. Any prompt payment discount Vendor offers Buyer shall be determined using the date Buyer receives a correct invoice and not the date of any incorrect invoice.

16. Default.

If Vendor defaults under any term of the Order and does not cure that default within fifteen days after Buyer gives Vendor written notice of default, Buyer shall be entitled: (a) to suspend its performance under the Order; (b) to terminate the Order and have no further obligation to Vendor; (c) to enter onto Vendor's premises and possess and remove all work which has been identified to this contract and complete or engage third parties to complete the same; (d) to pursue any other right or remedy Buyer may have; and (e) to pursue any of the foregoing remedies in combination with any other such remedies. Buyer shall be entitled to set off against all amounts Buyer owes Vendor. Buyer may "cover" with any third party for any unperformed portion of the Order and may disclose to the party providing cover for Goods or Services not performed by Vendor any and all information, intellectual property of work-in-process provided to Buyer hereunder.

16. Cancellation.

The Buyer reserves the right to cancel any part of the undelivered portion of an Order (i) if the Goods or work specified fail to conform to the specifications set forth in the Order; (ii) if the Vendor does not make deliveries as specified in the schedules; (iii) if the Vendor breaches any of the terms hereof, including the warranties of the Vendor; or (iv) if the goods were identified to a specific order placed with Buyer by its customer and the customer cancels its order. The Buyer shall also have the right to cancel this order or any part thereof, in the event of the happening of any of the following: insolvency of the Vendor; filing of a voluntary petition in bankruptcy; filing of an involuntary petition to have the Vendor declared bankrupt, provided it is not vacated within thirty (30) days from the date of filing the appointment of a receiver or trustee for the Vendor, provided such appointment is not vacated within thirty (30) days from the date of such appointment; or the execution by the Vendor of an assignment for the benefit of creditors. The remedies provided in this paragraph shall be cumulative and in addition to any other remedies provided in law or equity.

If Buyer cancels all or a portion of an Order under this section, Buyer shall pay Vendor an amount equal to the purchase price for all Goods that have been completed in accordance with the Order and not previously paid for and the actual costs of work-in-process and raw materials incurred by Vendor in furnishing the Goods under the Order to the extent such costs are reasonable in amount, cannot be resold or redeployed and are properly allocable or may be apportioned under generally accepted accounting principles to the terminated portion of the Order. Provided however, if cancellation by Buyer's customer of its order is the primary reason for cancellation of the Order with Vendor, then Vendor shall be paid by Buyer for the costs of work-in-process and raw materials only to the extent Buyer is reimbursed for such costs by its customer.

18. Assignment.

The Vendor shall not assign an Order, in whole or in part, without the prior written authorization of an officer or authorized buying agent of the Buyer. An Order shall be binding upon, and inure to the benefit of the successors and assigns of the Vendor.

19. Applicable Law.

Orders and these terms and conditions, shall be construed and interpreted under the laws of the State of North Carolina, and all respective rights and duties of the parties shall be governed by the laws of the State of North Carolina excluding its policies on the resolution of conflicts of laws. Any dispute or controversy arising out of or relating to the Order shall also be governed by the laws of North Carolina. In the event the Buyer and the Vendor are located in countries which are parties to the 1980 United Nations Convention on the International Sale of Goods ("UNCISG"), the parties hereby agree that the Order, and any dispute or controversy relating to it, shall not be governed by the provisions of the UNCISG. Rather, the Order and any dispute or controversy relating to it shall be governed by and construed according to the laws of the State of North Carolina, including its provisions of the Uniform Commercial Code.

20. Exclusive Forum.

Any claim or controversy arising out of or relating to the Order or the breach of the Order shall be resolved by binding arbitration in Charlotte, North Carolina by a single arbitrator under the rules of the American Arbitration Association then in effect, and judgment may be entered on the award by any court of competent jurisdiction. Each party shall be entitled to a reasonable amount of prehearing discovery as allowed by the Arbitrator; provided that the discovery period shall not exceed sixty days. If Buyer participates in any arbitration or litigation with its customer, and Vendor's performance under the Order has material relevance to the resolution of such arbitration or litigation, then, unless a final award has been rendered by the arbitrator as provided herein above, Buyer may require Vendor to participate in such arbitration or litigation with Buyer's customer, and in such case Vendor agrees to do



so and Buyer and Vendor agree that the governing law of such proceeding shall be the governing law with respect to the claim or controversy between Vendor and Buyer. The award of any arbitrator rendered pursuant hereto may be enforced by any court of competent jurisdiction.

21. Right of Offset.

The Buyer shall be entitled at all times to set off any amount owing from the Vendor to the Buyer against any amount due or owing to the Vendor with respect to the Order.

22. Force Majeure.

Neither party shall be liable for any default hereunder due to acts of God, strikes, fires, floods, acts of public enemy, acts of federal, state, or local government, or other unforeseeable causes beyond its control and without its fault or negligence. The Vendor shall notify the Buyer, in writing, of any such unforeseeable cause beyond its control, which may have delayed, or may delay, delivery as specified. In such event, the Buyer may terminate its Order and, provided such notice is timely, the Buyer shall be liable to the Vendor only for the contract price of the Goods actually received by the Buyer prior to termination and accepted as satisfactory.

23. Indemnification Regarding Vendor's Agents.

If any agent or representative of the Vendor is permitted by the Buyer to visit or enter upon any place of business of the Buyer in connection with the sale or purchase of Goods hereunder (to explain, delivery, inspect, demonstrate, repair or confer as to any such Goods, or for any other reason), the Vendor agrees to indemnify and save harmless the Buyer from any and all loss, damage, claim, cost, expense, and liability (including professional fees) of any kind arising out of the presence of such agent or representative on any part of such premises.

24. Miscellaneous.

The Buyer's failure to enforce its rights as to any violation of any provision hereof shall not be deemed a waiver or abandonment of its rights to enforce its rights as to any other violation of the same, or any other provision. If any provision or clause of the Order is held invalid for any reason by any court of competent jurisdiction, such invalidity shall not affect the other provisions or clauses which can be given effect without the invalid provision or clause. The rights and remedies herein expressly provided shall be in addition to any other rights and remedies available at law or equity.

25. Complete Agreement.

BUYER'S ORDER IS EXPRESSLY CONDITIONED UPON THE VENDOR'S AGREEMENT AND ASSENT TO THE TERMS AND CONDITIONS HEREIN STATED. These terms and conditions shall prevail over any inconsistent or additional provision in any invoice, statement, notice, letter, acceptance, or in any other communication (written or oral). No waiver, release, amendment, or modification of any terms, and no addition to the Order shall bind the Buyer unless set forth in a writing expressly referring to the Order and duly executed by the Buyer.