

**Western Reserve Controls, Inc.  
Terms and Conditions of Sale**

Western Reserve Controls Inc. (WRC) and Buyer agree that all the terms and conditions identified in this document shall govern exclusively the sale or licensing by WRC of all hardware firmware, software and services (collectively referred to as "GOODS"). No addition or modification to any of the terms and conditions as they appear in this document shall be binding upon WRC unless in writing and signed by an authorized representative at WRC headquarters. WRC objects to other terms and conditions that might be proposed by Buyer.

**PAYMENT TERMS**

Terms to Buyers with satisfactory credit, net 30 days. There is a finance charge for amounts outstanding at 60 days or more of 1.5% per month. (annual rate 18%). Amounts outstanding after 90 days are subject to collection. Buyer is responsible for all collection costs including but not limited to interest, court fees and attorney fees.

**SHIPMENT**

Shipment will be F.O.B. WRC's factory, storehouse, or other point of shipment by WRC. Buyer to pay all shipping, insurance and related expenses.

**TITLE AND RESPONSIBILITY**

Title to WRC Goods shall remain with WRC as security only and until full payment thereof. Software is licensed for use by Buyer pursuant to WRC license agreement. Risk of loss or damage shall pass to Buyer upon shipment from F.O.B. point

**QUOTATIONS**

All written quotations automatically expire unless accepted within thirty (30) days from the date quoted. Verbal quotations expire the same day they are made. In order for catalog orders to be binding, quotations must specifically identify Goods and list the actual quantities involved. All stenographic and clerical are subject to correction. All quotations are subject to approval by an authorized representative at WRC headquarters.

**PUBLISHED PRICES**

Prices shown in any WRC publications are subject to change without notice and are not to be construed as a definite quotation or offer to sell by WRC. Such publication is maintained only as a source of general information and any prices shown therein are subject to confirmation with a specific quotation

**TAXES**

The Buyer shall pay or reimburse WRC for all sales, use, excise or similar taxes.

**WARRANTY**

WRC GOODS: Unless otherwise provided in writing and approved by WRC headquarters, WRC warrants for a period of five (5) years from the date of WRC invoice that all non-software products furnished under order will be free from defects in material, workmanship and design. In any event, WRC makes no representation or warranty, expressed or implied, that the functions contained in the product will meet or satisfy the Buyers intended use or requirements.

THIRD PARTY RESALE GOODS: Goods not manufactured by WRC nor carrying a WRC label are not warranted by WRC. The original manufacturer's warranty is passed on to the Buyer.

SOFTWARE: Unless otherwise provided in a WRC or third-party license agreement. WRC warrants for a period of five (5) years from the date of invoice that the software furnished under this order will perform in accordance with published or other written specifications prepared approved, and issued by WRC Headquarters. In any event, WRC makes no representation or warranty, expressed or implied, that the functions contained in the software will meet or satisfy the Buyers intended use or requirements.

Satisfaction of this warranty, consistent with other provisions herein, will be limited to the replacement, or repair, or modification of, or issuance of a credit for the Goods involved, at WRC's option, only after the return of such Goods with WRC's consent. Any warranty service (consisting of time, travel and expenses related to such services) performed other than at WRC's factory, shall be at Buyers expense.

Such warranty satisfaction is available only if (a) WRC is promptly notified in writing upon discovery of an alleged defect and (b) WRC's examination of the subject Goods discloses, to its satisfaction, that any alleged defect has not been caused by misuse; neglect; improper installation; improper operation; improper maintenance, repair, alteration or modification; accident; or unusual deterioration or degradation of the Goods or parts thereof due to physical environment or due to electrical or electromagnetic noise environment. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESSED, IMPLIED, OR STATUTORY INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS and thereby excludes certifications or the like for product performance, use or design with respect to any standard regulation or the

like (unless and to the extent independently approved in writing at WRC Headquarters) AND EXTENDS ONLY TO BUYERS PURCHASING FROM WRC OR AUTHORIZED WRC RESELLER.

**LIMIT OF LIABILITY**

IN NO EVENT, REGARDLESS OF CAUSE, SHALL WRC ASSUME RESPONSIBILITY FOR OR BE LIABLE (a) FOR PENALTIES OR PENALTY CLAUSES OF ANY DESCRIPTION, OR (b) FOR INDEMNIFICATION OF BUYER OR OTHERS FOR COSTS, DAMAGES, OR EXPENSES EACH ARISING OUT OF OR RELATED TO THE GOODS OR SERVICES OF THIS ORDER, OR FOR CERTIFICATION, UNLESS OTHERWISE SPECIFICALLY PROVIDED HEREIN, OR (c) FOR INDIRECT OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCE, INCLUDING ANY LOSS, INJURY, OR OTHER DAMAGES. WRC'S MAXIMUM LIABILITY INCLUDING DIRECT DAMAGES, SHALL NOT EXCEED THE AMOUNT OF THE PURCHASE ORDER. THIS LIMITATION OF WRC'S LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE. ANY ACTION AGAINST WRC MUST BE BROUGHT WITHIN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES.

**RETURNS**

Goods may not be returned for credit without WRC's prior written consent and may be subject to a Twenty percent (20%) restocking charge. Such credit is issued for Buyer's use towards future purchases. All transportation charges for returned Goods are the responsibility of Buyer. Returned Goods are subject to WRC inspection and will not be considered for acceptance for credit unless they are (i) in WRC's sole discretion in "like new" condition, and (ii) returned to WRC within 60 days from the date of shipment. Buyer hereby agrees that it shall not debit WRC's account for any return, regardless of the reason for such return unless agreed to by WRC.

**PATENTS, COPYRIGHT AND MASK WORKS REGISTRATION.**

In no event shall WRC be liable for damages arising from infringement or alleged infringement of patents, copyrights, or mask works registration. In the event that Buyer should be enjoined in such suit or proceeding from using any of the Goods purchased, except any suit or proceeding based upon a design or modification incorporated in such Goods at request of Buyer, WRC, at its option, shall promptly either (i) secure termination of the injunction and procure for Buyer the right to use such Goods without any obligation or liability, or (ii) replace such Goods with non-infringing materials or modify same to become non-infringing, all at WRC expense and to Buyer's reasonable satisfaction, or (iii) remove said Goods at WRC expense and refund the purchase price of the infringing Goods to Buyer.

THIS SHALL BE BUYER'S EXCLUSIVE REMEDY AGAINST WRC WITH RESPECT TO PATENT, COPYRIGHT, OR MASK WORK REGISTRATION INFRINGEMENT. The sale of Goods thereunder does not convey or copyright under any proprietary or patent rights of any manufacturer. WRC shall not have any liability if the alleged infringement is based upon the use of or application of the Goods in combination with other Goods and Buyer shall indemnify WRC thereof. WRC disclaims all other liability for infringement of intellectual property rights and further disclaims any liability for incidental consequential damages.

Except for information provided by Buyer, WRC shall retain all right, title and interest (including patent, copyright and other proprietary or intellectual property rights) in all GOODS, all legally protectable elements, or derivative works thereof (collectively referred to as "RIGHTS"), whether or not paid for wholly or in part by Buyer, whether or not developed in conjunction with Buyer, and whether or not developed by WRC, Buyer or any contractor, subcontractor or agent for WRC or Buyer. To the extent that ownership of any RIGHT does not automatically vest in WRC by virtue of this Agreement or otherwise, Buyer agrees to transfer and assign to WRC all RIGHTS. Should WRC be unable or unwilling to fulfill orders for material developed in conjunction with a buyer, WRC hereby grants to Buyer an exclusive, nontransferable, royalty-free license to use RIGHTS in connection with Buyer's use of GOODS for the purposes for which GOODS are intended.

**GOVERNING LAW**

This agreement shall be deemed to be made in and performed in the State of Ohio and shall be governed by and interpreted in accordance with the laws of the State of Ohio including its provisions of the Uniform Commercial Code, but specifically excluding the provisions of the 1980 UN Convention on Contracts for the International Sales of Goods. The parties agree that Ohio courts have jurisdiction over them and this sale; that Summit County Ohio is the appropriate place for venue of any litigation arising hereunder, and that all such litigation shall, to the extent possible, be conducted in Summit County, Ohio.