

TERMS AND CONDITIONS OF SALE

All orders shall be made out to INVENSYS RAIL CORPORATION® ("Seller") and shall be subject to Seller's acceptance.

1. CONSTRUCTION AND LEGAL EFFECT. Seller's sale to Buyer will be solely upon the terms and conditions set forth herein. They supersede and reject any conflicting terms and conditions of Buyer, any statement in Buyer's terms and conditions to the contrary notwithstanding. Exceptions to any of Seller's terms and conditions must be contained in a written or typed (not printed) statement received from Buyer. Seller shall not be deemed to have waived any of its terms and conditions or to have assented to any modification or alteration of such terms and conditions unless such waiver or assent is in writing and signed by an authorized officer.

No representation of any kind has been made by Seller except as set forth herein; this agreement conclusively supersedes all prior writings and negotiations with respect thereto and Seller will furnish only the quantities and items specifically listed on the face hereof; Seller assumes no responsibility for furnishing other equipment or material shown in any plans and/or specifications for a project to which the goods ordered herein pertain. Any action for breach of contract must be commenced within one year after the cause of action has accrued. Seller's published or quoted prices, discounts, terms and conditions are subject to change without notice.

Clause headings are for reference purposes only and shall not affect the interpretation of this agreement.

2. PRICES. Unless otherwise noted on the face hereof, prices are net F.O.B. Seller's factory and firm for thirty (30) days, except for any prices relating to steel and aluminum products, due to market fluctuation. Service time of a factory-trained service representative is not included and may be charged extra. The amount of any applicable present or future tax or other government charge upon the production, sale, shipment or use of goods ordered or sold will be added to billing unless you provide us with an appropriate exemption certificate.

3. WARRANTY. Seller warrants its signals and track equipment against defects in material and workmanship for a period of one year from date of shipment. All electronic equipment, including signal control and communication equipment, is warranted for a period of two years from date of shipment. Seller's entire warranty obligation is limited to repairing or replacing, at Seller's sole option, any equipment which is returned within the warranty period and which the Seller finds to be so defective.

The integrity of custom-designed equipment, systems or other engineering services performed by Seller cannot be finally checked until all devices and circuits are connected to form a complete system or an effective portion thereof. Such a system or portion thereof must be given a complete circuit and operational test by the user before being accepted and placed in regular operation. Once accepted, Seller's warranty will be limited to parts that have been fully paid for.

The warranties for equipment not manufactured by Seller are the warranties of the manufacturers of such equipment, which are hereby assigned to Buyer without recourse to Seller.

Return of equipment to Seller is at Buyer's risk and expense. Equipment returned to Seller must be clearly identified and instructions must be furnished for reshipment to Buyer of the repaired or replaced equipment. Equipment will be returned to the Seller's plant of original manufacture.

All export taxes, fees and duties occurring from warranty shipments beyond the continental United States will be Buyer's responsibility.

The foregoing warranty will not apply to products or components, which have been subject to abuse, alteration, improper handling or installation, or which have not been operated or maintained in accordance with Seller's instructions. Alteration or removal of any serial number or identification mark voids the warranty.

The customer shall not attempt to repair products that are within the defined warranty period without the express written consent of Invensys Rail Corporation.

THE FOREGOING OBLIGATIONS EXPRESSLY UNDERTAKEN BY THE SELLER ARE IN LIEU OF:

ALL OTHER OBLIGATIONS AND LIABILITIES; AND

ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR OTHERWISE, EXPRESS OR IMPLIED IN FACT OR BY LAW; AND

STATE SELLER'S ENTIRE AND EXCLUSIVE LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR ANY CLAIM OF DAMAGES IN CONNECTION WITH THE SALE OR FURNISHING OF GOODS OR PARTS, THEIR DESIGN, SUITABILITY FOR USE, INSTALLATION OR OPERATION.

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4. CANCELLATION AND RESTOCKING OF ORDERS. This policy defines the terms and conditions under which Seller will accept purchase order cancellation and/or the return of Seller's equipment for restocking.

CANCELLATION OF ORDERS. Purchase order cancellations received prior to shipment of the ordered equipment from the Seller's designated factory may, at Seller's discretion, be accepted at no cost to the Buyer provided that:

1. The cancelled equipment is Seller's standard stock.
2. The equipment is in a standard configuration and has not been altered or specially modified to Buyer's requirements.
3. The cancellation magnitude is such that Seller does not incur undue hardship and coincident costs in returning the canceled equipment to stock.

Should the above conditions not prevail, a cancellation charge will be established on a percentage of completion basis.

RESTOCKING. Subject to a 15 percent restocking charge of the total selling price, Seller will accept returned equipment for credit or exchange subject to the following conditions:

1. The cancelled equipment is Seller's standard stock and is returned with the Seller's prior approval.
2. Seller reserves the right to refuse acceptance of returned equipment which is not in an "as new" condition or which has been altered or modified to meet Buyer's special requirements.
3. Seller reserves the right to refuse the return of equipment which may cause excessively high inventories.
4. Material returned to Seller for restocking will be at the Buyer's expense and risk.

5. OUT OF WARRANTY. Seller establishes this policy to cover repair or replacement of equipment sold by Seller which has had the warranty period expire. Seller will repair or replace such equipment at Buyer's expense pursuant to the following terms and conditions:

1. Buyer shall return the equipment to the Seller's designated factory at the Buyer's expense and risk.
2. When the equipment is repaired and returned the Buyer will be invoiced for repair of the equipment based on total cost of labor and materials used for repair, tests, inspection, etc.
3. The warranty established in Seller's warranty policy for its equipment applies to new equipment only. No warranty, expressed or implied, applies to equipment repaired and returned under this policy.
4. If it is determined by Seller that the repair cost per item will exceed 50 percent of the then selling price of a new replacement, Buyer will be so notified. Seller will await Buyer's advice to repair or replace the defective item before proceeding with any repairs.
5. All export taxes, fees and duties occurring from out-of-warranty shipments beyond the continental United States will be the Buyer's responsibility.

6. CREDIT AND PAYMENT. Unless otherwise noted on the face hereof, terms are net thirty (30) days. Seller may decline to deliver except for cash, or stop goods in transit, whenever for any reason doubt as to Buyer's financial responsibility develops. Pro-rata payment shall become due with partial shipments. Where Buyer is responsible for any delay in shipment, the date of completion of goods may be treated by Seller as the date of shipment for purposes of payment, completed goods shall be held at Buyer's cost and risk, and Seller shall have the right to bill Buyer for reasonable storage and insurance expenses.

Buyer hereby grants Seller a purchase money security interest in goods until such time as Seller is fully paid. Buyer will assist Seller in taking the necessary action to perfect and protect Seller's security interest. If Buyer defaults under any obligation hereunder, Buyer agrees to make goods available so that Seller can repossess them without a breach of the peace. No goods furnished by the Seller shall become a fixture by reason of being attached to real estate. In the event it becomes necessary to incur any expense for collection of any overdue account, reasonable collection charges, including reasonable attorneys' fees, will be added to the balance due and Buyer shall pay all such charges. All rights and remedies of Seller herein are in addition to, and shall not exclude, any rights or remedies that Seller may have by law.

On late payments, the contract price shall, without prejudice to Seller's right to immediate payment, be increased by 1½ percent per month on the unpaid balance, but not to exceed the maximum permitted by law. Additionally, if Buyer has failed to make payment when due or to perform on time any of its other obligations under this agreement, Seller shall in its sole discretion be entitled to: (i) suspend its performance until such failure is remedied; (ii) extend the estimated time for delivery accordingly; (iii) recover from Buyer any costs incurred as a result of or in connection with such suspension; and/or (iv) terminate the order or this agreement with immediate effect without liability. Seller shall furthermore be entitled to terminate this agreement with immediate effect by serving notice to Buyer if: a receiver is appointed for Buyer; Buyer is unable to pay its debts as they fall due; Buyer files a voluntary petition in bankruptcy or a petition is filed against it; Buyer applies for relief of any form as a debtor under any statute, law or regulation of the United States or any other governmental authority; or Buyer commits any act of insolvency.

7. DELIVERY. Delivery, shipment and installation dates are estimated dates only, and unless otherwise specified, are figures from the date of receipt by Seller of complete technical data and approved drawings as such may be necessary. In estimating such dates, no allowance has been made, nor shall we be liable directly or indirectly, for delays of carriers or delays from labor difficulties, shortages, strikes or stoppages of any sort, fires, accidents, failure or delay in obtaining materials or manufacturing facilities, acts of government affecting Seller directly or indirectly, bad weather or any causes beyond Seller's

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control or causes designated Acts of God or force majeure by any court of law, and the estimated delivery date shall be extended accordingly. Seller will not be liable for any damages or penalties whatsoever, whether direct, indirect, special or consequential, resulting from our failure to perform or delay in performing unless otherwise agreed in writing by an authorized officer.

8. SHIPPING. Unless Buyer specifies otherwise in writing, (a) goods will be boxed or crated as Seller may deem proper for protection against normal handling, and extra charge will be made for preservation, waterproofing and similar added protection of goods, (b) routing and manner of shipment will be at Seller's discretion, and may be insured at Seller's expense, value to be stated at order price. On all shipments F.O.B. Seller's plant, delivery of goods to the initial carrier will constitute delivery to Buyer with ownership and risk of loss transferring to Buyer at such time, and all goods will be shipped at Buyer's risk. A claim for loss or damage in transit must be entered with the carrier and prosecuted by Buyer.

9. INTELLECTUAL PROPERTY RIGHTS AND PATENT INFRINGEMENT. Any and all intellectual property rights (including without limitation copyright, patents and design rights) generated by Seller in performance of this order, or subsisting in or relating to the goods and/or services provided by Seller in connection with order shall, subject to the rights or third parties, vest in Seller. Seller will not be liable for any claim of infringement unless due to infringement by goods manufactured by Seller in the form in which Seller supplies such goods to Buyer and without regard to their use by Buyer. If Buyer notifies Seller promptly of any such claim of infringement and, if Seller so requests, authorizes Seller to defend or settle any suit or controversy involving such claim, Seller will indemnify Buyer against the reasonable expenses of any such suit and will satisfy any judgment or settlement in which Seller acquiesces, but only to an amount not exceeding the price paid to Seller for the allegedly infringing goods. If an injunction is issued against the further use of allegedly infringing goods, Seller shall have the option of procuring for Buyer the right to use the goods, or replacing them with non-infringing or of removing them and refunding the purchase price. The foregoing expresses Seller's entire and exclusive warranty and liability as to patents, and Seller will not be liable for any and all claims, demands, liabilities, damages, costs and expenses resulting from or connected with any claim of patent infringement arising out of the manufacture by Seller of goods in accordance with a design or specifications which Buyer furnishes Seller.

10. INSPECTION. Inspection of goods in Seller's plant by Buyer or Buyer's representative will be permitted insofar as this does not unduly interfere with Seller's production workflow, provided that complete details of the inspection Buyer desires are submitted to Seller in writing in advance.

11. RECORDS, AUDITS AND PROPRIETARY DATA. Unless otherwise specifically agreed to in writing signed by an authorized officer, neither Buyer nor any representative of Buyer, nor any other person, shall have any right to examine or audit Seller's cost accounts, books or records of any kind or on any matter, or be entitled to, or have control over, any engineering or production prints, drawings, or technical data which Seller, in its sole discretion, may consider in whole or in part proprietary to itself.

12. INDEMNIFICATION; LIMITATION OF LIABILITY. IN GENERAL, IF THE PLANS AND SPECIFICATIONS FOR SIGNAL EQUIPMENT OR SERVICES COVERED BY THIS AGREEMENT ARE SPECIFIED OR APPROVED BY THE BUYER, OR ITS AGENT, SUCH SPECIFICATION OR APPROVAL SHALL CONSTITUTE AN AGREEMENT BY BUYER TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ALL CLAIMS ARISING OUT OF THE DESIGN, ENGINEERING, CHOICE OF MATERIAL AND SUPPLIES, OR PLANNING OF THE SIGNAL SYSTEM, INCLUDING BUT NOT LIMITED TO PROFESSIONAL NEGLIGENCE AND FAILURE TO ADHERE TO GENERALLY ACCEPTED ENGINEERING STANDARDS.

IN NO EVENT WHATSOEVER SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, INCOME, OPPORTUNITY, REVENUE, PRODUCTION, GOODWILL, USE, CONTRACT REPUTATION OR INTEREST, INDEMNITY FOR THIRD PARTY COSTS OR LOSSES, PUNITIVE OR EXEMPLARY DAMAGES, INTEREST ON CONTRACT FINANCE, OR OTHER ECONOMIC OR INDIRECT TYPE LOSSES, WHETHER REAL OR ALLEGED, RELATING IN ANY WAY TO THIS AGREEMENT OR ANY EQUIPMENT OR SERVICES PROVIDED HEREUNDER (INCLUDING, WITHOUT LIMITATION, THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT AND THE USE OF OR THE LOSS OF USE OF ANY OF THE EQUIPMENT OR ANY OTHER PROPERTY INCLUDING BUT NOT LIMITED TO RAILWAY/TRACK INFRASTRUCTURE) REGARDLESS OF WHETHER SELLER AND/OR OTHERS MAY BE WHOLLY, CONCURRENTLY, PARTIALLY, JOINTLY OR SOLELY NEGLIGENT OR OTHERWISE AT FAULT AND REGARDLESS OF WHETHER SELLER MAY HAVE BEEN INFORMED OR OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S TOTAL LIABILITY HEREUNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE DOLLAR AMOUNT PAID BY BUYER HEREUNDER.

13. SPECIAL TERMS FOR SOFTWARE. The following terms apply to any Product that constitutes or contains software ("Software"), including but not limited to software contained within equipment or other Products provided pursuant to this agreement ("Embedded Software").

Subject to the terms and conditions of this Agreement, Seller hereby grants Buyer a nonexclusive, nontransferable license to use the Software at the Designated Site for Software Use ("Designated Site") listed on the face hereof. This license extends solely to Buyer's internal use of the Software. The Software may be used only on the designated platform set forth on the face hereof ("Designated Platform"), as follows: (a) if the Designated Platform is a single personal computer, the Software may be used only by a single user on a single personal computer at the Designated Site; (b) if the Designated Platform is a local area network, the Software may be used only on a single local area network at the Designated Site, including personal computers at the Designated Site that are physically connected to such local area network, provided Buyer limits its use to the number of users set forth on the Order Page; (c) if the Software is Embedded Software then the Designated Platform is the Seller's equipment onto which the Software is installed and the Software may only be used on said equipment of Seller. If the Software is not Embedded Software and there is no platform designated for it on the Order Page, the Designated Platform will be a single personal computer.

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Except with regard to Embedded Software, Buyer may (a) install a single copy of the Software onto the Designated Platform as an essential step in the use thereof as authorized by this agreement and (b) make one additional backup or archival copy. Buyer may not make (and may not allow any third party to make) any copies of any documentation that Seller provides regarding the Software.

Except for the license to use the Software as expressly set forth in this Agreement, all rights, title and interest in and to the Software are retained by Seller and Seller's licensors and suppliers. Buyer will retain in any copies of the Software (or any portion thereof) the copyright, trademark, confidentiality, patent and other proprietary rights, notices and markings included in the Software provided by Seller. Buyer does not own any copies of the Software or any portion thereof. Ownership of any such copies is retained by Seller. Buyer will not (and will not allow any third party to) (a) create any derivative work of or otherwise modify the Software or any portion thereof, (b) copy all or any portion of the Software, except as expressly authorized in this Agreement, or (c) allow use of or access to the Software by any person other than Buyer's own employees, except as otherwise authorized in writing by Seller.

Buyer will not (and will not allow any third party to) reverse assemble, decompile, or otherwise reverse engineer all or any portion of any Product, or otherwise attempt to derive any algorithms, techniques, or other non-public features of any Product, except to the extent that any such activities are expressly authorized by the laws of the jurisdiction where the Product is used, and provided that the results of any such activities shall be deemed confidential information of Seller and shall be maintained in confidence and not disclosed, copied, or published without Seller's written consent.

14. CATALOG INFORMATION; CONFORMITY WITH SAMPLES. Seller reserves the right to discontinue products, or to modify the design or specifications of any product without notice, without incurring any obligation including, without limitation, making any modification to equipment previously sold. Published weights are carefully estimated but are not guaranteed. Dimensions shown in sales literature are approximate for construction purposes. Certified dimension drawings can be obtained upon request from the factory. Seller does not warrant that samples will conform to production articles.

15. WAIVER; SEVERABILITY; NO ASSIGNMENT CONFIDENTIALITY. No failure of Seller to require strict performance by Buyer of this Agreement shall waive, affect or diminish any right of Seller to demand strict performance of this Agreement thereafter. The rights and remedies herein reserved to Seller shall be cumulative and in addition to any other rights and remedies provided by law.

If any provision of this Agreement is held by any court to be invalid or unenforceable, such provision shall be deemed to be modified or deleted, but only to the extent necessary to enable that and the remaining provisions of this Agreement to be valid and enforceable. Buyer may not assign any rights or obligations under this Agreement without the prior written consent of Seller.

Each party shall treat as confidential all information received or obtained as a result of entering into or performing this Agreement and which is designated confidential or which ought reasonably to be regarded as confidential. Notwithstanding the foregoing, neither party shall at any time

divulge, disclose, or otherwise furnish to any third party any confidential information, except in the following circumstances; the other party has given its prior written consent; disclosure is necessary in the proper performance of this agreement, including disclosure to the relevant party's professional advisors; disclosure is required by law or by order of court, police, revenue, government or other similar authority or by the rules of any relevant regulatory body; the information is in the public domain otherwise than by a breach of this clause; the information is already in the lawful possession of the relevant party; or the information is received from a third party which is free to disclose the same.

16. GOVERNING LAW; CONSENT TO JURISDICTION. This Agreement shall be deemed to have been made under, and shall be construed and interpreted in accordance with, the substantive laws of the state of Kentucky, without regard to any choice of law, rules or principles, and excluding the Convention for the International Sale of Goods. Buyer hereby submits to the jurisdiction of the state and federal courts of Kentucky and said courts shall have exclusive jurisdiction and venue to adjudicate the rights and obligations of the parties relating in any manner to this Agreement.