

TERMS AND CONDITIONS OF SALE

These terms and conditions apply to your Order. PLEASE READ CAREFULLY PRIOR TO PLACING AN ORDER.

[1.0] DEFINITIONS:

“**Agreement**” means these Terms and Conditions of Sale.

“**Buyer**” means the person, organization or other legal entity that places an Order.

“**Invoice**” means the sales invoice issued by TRAFx to Buyer for the Items listed on the TRAFx Quote and Order Form.

“**Items**” means any quoted item listed on the TRAFx Quote and Order Form.

“**Order**” means the placement of an Order by Buyer to TRAFx by submitting a TRAFx Quote and Order Form or by submission or use of a purchase order or other procurement instrument or means, electronically or otherwise, which Order placement constitutes Buyer’s irrevocable and binding agreement to abide by TRAFx’s Terms and Conditions of Sale.

“**Product**” means any product manufactured by TRAFx listed on the TRAFx Quote and Order Form, excluding DataNet.

“**TRAFx**” means TRAFx Research Ltd., a corporation registered in the province of Alberta (Canada).

[2.0] OFFER AND ACCEPTANCE: TRAFx offers to sell Items to Buyer in strict accordance with the Terms and Conditions of Sale stated herein. These Terms and Conditions of Sale shall be the complete and exclusive statement of the terms of agreement between Buyer and TRAFx. TRAFx hereby objects to and rejects any different, additional or conflicting terms proposed by Buyer.

Placing an Order using the TRAFx Quote and Order Form, or by submission or use of a purchase order or other procurement instrument or means, electronically or otherwise, shall be deemed an acceptance of this offer, which offer and acceptance shall constitute a legally enforceable contract between Buyer and TRAFx.

[3.0] PRICING & CURRENCY: Prices for Items are valid for 90 days from the date on the TRAFx Quote and Order Form, unless stated in writing otherwise. TRAFx specifies the currency.

[4.0] SALES TAXES AND FEES: All applicable sales taxes are the responsibility of Buyer. For shipments outside of North America, all governmental fees (e.g., duty), if any, are Buyer’s responsibility.

[5.0] PAYMENT: TRAFx reserves the right to require full or partial payment in advance of shipping the Items. Otherwise, payment is due in full 30 days from the date set out on the Invoice. Acceptable payment methods are by cheque, bank transfer, or approved credit card. If TRAFx does not receive payment by the due date, Buyer shall be charged interest on any unpaid balances at the lesser of 2% per month or the maximum rate allowable by law. Buyer shall be responsible for reimbursing TRAFx for all costs (including legal fees) associated with collecting delinquent or dishonored payments or enforcing this Agreement.

[6.0] SHIPPING DATE, METHOD AND TITLE:

[6.1] Ship date: Ship date is calculated based upon the lead time specified by TRAFx on the TRAFx Quote and Order Form. Buyer acknowledges the ship date and lead time are estimates only. Either Buyer or TRAFx may cancel an Order by emailing the other party in this regard prior to shipping. If Buyer cancels an Order, third-party credit card processing fees, if any, associated with the Order are non-refundable.

[6.2] Delivery Method and Title: All shipments are by Carrier and Insurance Paid (CIP, Incoterms 2010). Shipments outside Canada are sent by air. Shipments within Canada are sent by ground or air. Title shall pass to Buyer upon TRAFx’s delivery of package to the first shipping carrier.

[7.0] RETURNS: Returns must be done within 15 days after receipt of shipment. Buyer shall in all cases obtain written authorization and return shipping instructions from TRAFx via email prior to returning any Item. There will be a restocking fee of fifteen percent (15%). Returned Items must be “like new” and returned complete in their original packaging. Refunds are exclusive of shipping and sales tax (if any). Unless otherwise instructed by TRAFx, Buyer will be responsible for arranging and paying for return shipping and must insure the shipment against loss and damage. Third-party credit card processing fees, if any, associated with returns are non-refundable.

[8.0] TECHNICAL SUPPORT: Technical support will be provided to Buyer, in accordance with TRAFx’s then-current Technical Support Policy (see www.trafx.net/legal). In all cases, technical support will be via email or phone.

[9.0] LIMITED WARRANTY:

[9.1] Products: By placing an Order, Buyer is deemed to have accepted the following warranty terms and other limitations. TRAFx warrants to Buyer that each Product shall be substantially free from defects in materials and workmanship under normal use for a period of one (1) year from the date on the Invoice (or for a period of five (5) years if TRAFx’s optional extended limited warranty is purchased). The exclusive remedy and entire liability under this warranty will be for repair or replacement of the Product under warranty on a like-for-like basis, at TRAFx’s sole option. TRAFx shall not have any obligation to repair or replace any Product under warranty until Buyer returns the warranted Product to TRAFx in accordance with these Terms and Conditions of Sale. This warranty shall not apply to any Product defects resulting from but not limited to the following: (a) improper maintenance or installation; (b) misuse, neglect or accident; (c) damage from moisture or corrosive environments; (d) electrostatic discharge; (e) operation outside the Products specification; (f) failure to follow Product instructions or (g) alterations or modifications made to the Product in any way.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH ABOVE, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS ARE SUPPLIED ON AN “AS IS” BASIS AND THERE ARE NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, WHETHER EXPRESSED OR IMPLIED, WRITTEN OR ORAL, ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, WITH RESPECT TO THE PRODUCT. TRAFx SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, AND NON-INFRINGEMENT.

This limited Product warranty applies solely to original Buyer and is non-transferable.

[9.2] Third Party Merchandise: Third party merchandise (e.g., cables) carries different warranty terms than TRAFx Products. Any warranty and technical support provided for third party merchandise is provided by the original manufacturer, not by TRAFx and TRAFx shall use reasonable commercial efforts to transfer that warranty, if transferable.

[10.0] DATANET: Terms and conditions applying to DataNet are also governed by DataNet’s Terms and Conditions of Use (see www.trafx.net/legal) and Buyer is bound by these on the Invoice date, which corresponds to the Subscription Plan’s start date.

[11.0] LIMITED LIABILITY FOR PRODUCTS: IN NO EVENT SHALL TRAFX (INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS AND CONTRACTORS) BE LIABLE TO BUYER, ANY THIRD PARTY OR ANY OTHER PERSON FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES OR OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO ANY CLAIM FOR DAMAGES ARISING FROM LOST PROFITS, LOST REVENUE, LOST DATA, LOST OPPORTUNITY OR GOODWILL, LOSS OF USE OR OTHER ECONOMIC ADVANTAGES OR FOR OTHER INCIDENTAL OR CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER BASED ON CONTRACT, TORT (INCLUDING WITHOUT LIMITATION, NEGLIGENCE, PERSONAL INJURY TO BUYER INCLUDING BUYER'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, VOLUNTEERS, CONTRACTORS AND THOSE FOR WHOM IT IS RESPONSIBLE AT LAW), OR ANY OTHER LEGAL THEORY, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR WHETHER SUCH DAMAGES ARE FORESEEABLE. IN ANY EVENT, THE TOTAL AGGREGATE LIABILITY OF TRAFX FOR DIRECT DAMAGES SHALL NOT EXCEED THE PURCHASE PRICE ACTUALLY PAID FOR THE PRODUCTS AND ITEMS.

[12.0] INTELLECTUAL PROPERTY: For the purposes of this clause, "Intellectual Property Rights" means all of TRAFX's patent rights, design rights, copyrights, trademarks, the service marks, trade names, domain name rights, mask work rights, trade secrets, know-how and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature (anywhere in the world) or that are used or embodied in or in connection with the Products and any parts thereof and includes DataNet. Buyer acknowledges that any and all of the Intellectual Property Rights are and shall remain the property of TRAFX and Buyer shall not question or dispute the ownership by TRAFX of any such Intellectual Property Rights. Buyer agrees not to modify, change, adapt, or improve the Product(s) without the consent of TRAFX which consent may be withheld at the discretion of TRAFX. The ownership of any and all Intellectual Property Rights arising from changes, modifications, adaptations or improvements made to the Product(s) by Buyer shall remain with TRAFX. In the event of a breach or a threatened breach by Buyer of this clause, Buyer agrees TRAFX shall, in addition to all other remedies available at law, be entitled to an injunction or any other like remedy in order to prevent or to restrain any such breach or threatened breach by Buyer in order to protect TRAFX's intellectual property rights. This clause shall survive termination of this Agreement.

[13.0] FORCE MAJEURE: TRAFX shall not be responsible for delays or non-delivery by reason of fire, explosion, floods, storms, accidents, strikes, riots, insurrections, war, acts of God or terrorism, power failures, transportation difficulties, government action, delays encountered when shipping across international borders, embargoes, inability to secure raw material, or any cause beyond TRAFX's reasonable control.

[14.0] EXPORT CONTROL: Buyer acknowledges that the Items sold hereunder are subject to applicable export control laws and regulations and Buyer agrees to comply with such laws and regulations.

[15.0] SEVERABILITY: If any of the terms of this Agreement are determined by any competent judicial authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

[16.0] GOVERNING LAW AND FORUM: This Agreement, together with the purchase, sale and use of Items, and all other aspects of the relationship between TRAFX and Buyer shall be

governed by and construed in accordance with the laws of the Province of Alberta and the applicable laws of Canada without giving effect to any choice of law rules that could result in the application of the laws of any other jurisdiction. Buyer and TRAFX hereby agree to atorn to the exclusive jurisdiction of the courts in Calgary, Alberta (Canada).

[17.0] GENERAL: The application to this Agreement of the U.N. Convention on Contracts for the International Sale of Goods is hereby expressly excluded. Item(s) are not intended for use in critical safety situations or nuclear facilities or any other application or activity where failure could cause substantial harm to persons or property. Buyer indemnifies and holds harmless TRAFX, its directors, officers, employees, agents, servants, contractors and those for whom TRAFX is responsible at law from any claim, demand, loss, liability, damage or expense arising in any way from the use of Item(s) by Buyer (including Buyer's directors, officers, employees, agents, volunteers, servants, contractors and those for whom Buyer is responsible at law) including claims by any third party with direct or indirect relation to this Agreement.

This Agreement shall be binding upon and enure to the benefit of the parties hereto and to their respective successors and permitted assigns. Neither party may assign this Agreement, in part or in whole, without the other's express written consent, except that either party may without written consent assign this Agreement to another party in the event of a merger or acquisition.

No waiver or change of any provision shall be effective unless made in writing and approved by both parties. No waiver of any breach of any provision shall constitute a waiver of any subsequent breach of the same or of any other provision. Each term and condition under this Agreement will survive any expiry or termination of this Agreement and remain effective and in full force for so long as may be necessary to give effect to its purpose as set forth herein. Unless otherwise expressly stated in this Agreement, all notices pertaining to this Agreement shall be in writing and sent by prepaid courier (UPS, FedEx or DHL) to the other party's current address, and shall be deemed to have been received on the date of delivery. Headings are for the convenience of the parties only.