

1. General. In these terms and conditions, Ensil Technical Services, Inc. is referred to as "Seller" and the party to whom Seller's quotation or repair estimate is addressed is referred to as "Buyer." All quotations, repair estimates, authorizations to proceed, order acknowledgments, invoices, and sales of Seller's services, repairs, manufacturing, or other work are subject to these terms and conditions. Any purchase order or other communication from Buyer that contains terms and conditions in addition to or inconsistent with Seller's terms and conditions will not be binding upon Seller. Failure of Seller to object to provisions contained in any purchase order or other communication from Buyer will not be construed as a waiver of Seller's terms and conditions nor an acceptance of any of Buyer's provisions. Seller's quotation or repair estimate, Buyer's authorization to proceed, Seller's order acknowledgment, Seller's invoice, and these terms and conditions (the "Sale Documents") constitute the entire agreement between Buyer and Seller with respect to the sale of Seller's services, repairs, manufacturing or other work (the "Transaction"). The Sale Documents supersede all other oral and written communications, representations, and understandings. The Sale Documents and Transaction are governed by New York law, without reference to the laws of any other jurisdiction, including choice of law. Any action or proceeding arising out of or relating to the Transaction or Sale Documents must be commenced in New York State Supreme Court, Niagara County, or the United States District Court, Western District of New York, in Buffalo, NY. Buyer consents to personal jurisdiction in said courts for purposes of any such action or proceeding.

2. Quotations/Repair Estimates. Written quotations and repair estimates expire 30 days from the date issued unless otherwise stated in the quotation or repair estimate. After expiration, the quotation or repair estimate may be honored at Seller's sole discretion, or be re-quoted or re-estimated.

3. Acceptance of Orders. Buyer must return a signed copy of Seller's quotation or repair estimate as Buyer's authorization to proceed with the Transaction. Buyer's authorization to proceed constitutes acceptance of Seller's terms and conditions, and the Transaction becomes non-cancellable by Buyer. Any accompanying purchase order or other communication from Buyer that contains terms and conditions in addition to or inconsistent with Seller's terms and conditions will not be binding upon Seller unless the specific term or condition is recited in a subsequent order acknowledgement issued by Seller. Any signature of Buyer's purchase order by Seller shall not be construed as an acceptance of any of Buyer's terms or conditions under any circumstances and shall be construed only as evidence that Seller received the document. Any reference to Buyer's purchase order number or work order in Seller's quotation, repair estimate, order acknowledgement, shipping document, invoice, or other communication is for reference purposes only and shall not constitute or be construed as an acceptance of any of Buyer's terms and conditions. At Seller's sole discretion, Seller may require Buyer to enter into a Confidentiality Agreement or Non-Disclosure Agreement as a condition to Seller's performance of the Transaction.

4. Specifications. Unless otherwise expressly agreed in a writing signed by an authorized representative of Seller, Buyer acknowledges that Seller is not obligated to perform repairs or services to the Buyer's or the original equipment manufacturer's specifications for the device or equipment being serviced or repaired. Seller will perform repairs and services in accordance with IPC standards for electronic printed circuit boards and reasonable industry practices for commercial electronic repair and service, which include the use of non-OEM repair parts. If Buyer provides any specifications or designs to Seller to construct prototypes or manufacture devices, Buyer will defend and indemnify Seller for all claims, costs and expenses (including attorney's fees and disbursements) arising out of or relating to any patent, trademark or copyright infringement claims due to Seller's compliance with Buyer's specifications and designs. Seller will not be responsible for the accuracy or suitability of Buyer's specifications and designs for Buyer's intended use or for the performance of any devices or equipment manufactured by Seller in conformance with Buyer's designs and specifications.

5. Delay. All quoted or estimated turn around times, delivery dates, and shipping dates are estimates only, and time is not of the essence. Any rush or expedited dates to which Seller agrees will be in writing and subject to additional surcharges.

6. Payment and Credit. Unless satisfactory credit is established with Seller, payment in full is required when Buyer issues authorization for Seller to proceed. In any action, proceeding, or claim brought by Seller against Buyer for non-payment, Seller is entitled to recover its attorneys fees' costs, and expenses.

7. Shipping and Risk of Loss. Seller will notify Buyer in writing when Buyer's order is ready, and Buyer shall have 30 days from the date of notification ("Initial 30 Day Period") to deliver to the Seller all export permits and government authorizations required by The US Department of State and or The United States Customs and Boarder Protection for the export of the goods and or The U.S. Department of Commerce for the export of the equipment or devices (the "Product") outside of United States Of America or release of restricted Product. If all export permits and/or government authorizations permitting the release of Product required by law are not provided to the Seller within the Initial 30 Day Period, the Product is forfeited to the Seller without recourse of any kind or entitlement to refund of any payment for the Product previously made by the Buyer. If the Seller receives all of the aforesaid export permits and government authorizations that are required by law from the Seller within the Initial 30 Day Period, the Seller will advise the Buyer that the Product is available for pick up Ex Works (EXW) at Seller's facility in Niagara Falls, New York for a further 30 day period ("Second 30 Day Period") with no freight allowed. If the Product is not picked up by the Buyer within the Second 30 Day Period, the Product is forfeited to the Seller without recourse of any kind or entitlement to refund of any payment for the Product previously made by the Buyer. Seller will have no liability whatsoever to the Buyer for the Product, and Seller will be entitled to dispose of the Product as the Seller sees fit and retain any proceeds without accounting to or reimbursing the Buyer. The Buyer is responsible for all packaging and shipping costs, insurance, cost of exporting outside of USA, obtaining permits and authorizations from government regulators, and arrangements for the transport from Seller's facility to the destination Buyer chooses. Under no circumstance will the Seller be liable or responsible for export of Product outside of USA, late, delayed, lost or damaged shipments. The Buyer acknowledges that any information about the source of the Product, placing of orders for Product, Seller's suppliers, business records, financial records, correspondence, business opportunities and customer lists is confidential information of the Seller ("Confidential Information"), which under no circumstances will the Seller be required to disclose to the Buyer; Buyer acknowledges that it would cause irreparable harm to Seller's business if Seller were required to disclose the Confidential Information.

8. Limited Warranties. Seller warrants its services and repairs will be free from defects in parts, labor, and workmanship for a period of 120 days from the date of pickup or shipping from Seller's facility. Unless otherwise agreed to in a writing signed by an authorized representative of Seller, and for additional cost, Seller's 120-day warranty period will not be extended. Seller's limited warranty is made exclusively to Buyer and is non-transferable. Seller warrants that Seller's prototypes and Seller's manufactured devices will be free from defects in labor and workmanship for a period of 120 days from the date of pickup or shipping from Seller's facility and will conform to the design and parts specifications agreed to by Seller in writing. Seller makes no warranty as to the performance of the prototype or manufactured device in Buyer's intended use or application. Seller's warranty on prototypes and manufactured devices does not extend to any parts, components, or products manufactured by others and incorporated by Seller into the prototype or manufactured device. Seller passes on to Buyer any available warranty provided by the manufacturer or supplier of any such parts, components, or products to the extent permitted by the terms thereof. **SELLER'S WARRANTIES ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THERE ARE NO OTHER WARRANTIES THAT EXTEND BEYOND THIS EXPRESS LIMITED WARRANTY.** These limited warranties do not cover damage from shipping, defective packaging, transport, Electro Static Discharge, abuse, misuse, installation, power surges, improper maintenance, accident, negligence, wear and tear, alterations, tampering, or exposures to moisture, weather, radiation, or to any other harmful conditions. Seller's limited warranty covers only the repair and service work performed by Seller as authorized and paid for by Buyer, and does not include software or firmware embedded in internal circuit boards, chips, or other electronic components of the device. Any warranty claims by Buyer must be submitted to Seller as soon as possible after the defect is discovered, but in no event later than five business days following the expiration of the warranty period, by returning, at Buyer's sole cost and expense, the equipment or device to Seller for inspection along with written notice of the warranty claim that includes a description of the claimed defect. If determined by Seller that Seller's parts, labor, or workmanship were defective, Seller will repair or correct the warranted work and return the equipment or device at Seller's expense. If determined by Seller that Seller's parts, labor, or workmanship were not defective, or the device or equipment has other defects or damage unrelated to Seller's warranted work, Seller will contact Buyer to advise of potential options. Seller's limited warranties are Buyer's sole remedy for any claimed defects or deficiencies in Seller's services, repairs, prototypes, manufacturing, or other work.

9. Limitation of Liability. Buyer assumes all risks and liabilities resulting from the use of any repaired devices or equipment, or any prototypes or manufactured devices, whether used independently or in combination with other equipment, devices, persons, or substances. Seller will not be liable for damages to any persons or property arising out of or relating to use, abuse, alterations, repairs, modifications, tampering, accidents, or any attempts to use equipment, devices, prototypes, or manufactured items that are in a damaged or defective state. **UNDER NO CIRCUMSTANCE WILL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY SPECIAL, CONTINGENT, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE.** Seller's liability with respect to a claim for damages arising out of or related to the manufacture, sale, purchase, repair, servicing, use, or performance of any device or piece of equipment repaired, serviced, or manufactured by Seller will in no event exceed the price Buyer paid to Seller for the servicing, repairing, manufacturing, or other work performed by Seller on such device or equipment.

10. Force Majeure. Seller shall not be liable for failure to perform if performance is made impracticable due to any occurrence beyond its control, including, but not limited to, acts of God, terrorism, fires, floods, wars, sabotage, accidents, labor disputes, shortages, governmental laws, ordinances, rules and regulations, priorities, requisitions, allocations, price adjustments, inability to obtain raw material or parts, and any other similar or different occurrence. In the event Seller is unable to perform or complete the Transaction for any of the above reasons, Seller will contact Buyer to advise and discuss alternative options, if any.

11. Indemnification. If Seller or any of Seller's subcontractors (including Ensil Canada Ltd.) is made a party to any action, arbitration, or proceeding involving Buyer, any persons deriving title from Buyer, or any other third party on the basis of breach of warranty, breach of contract, negligence, strict liability, or other claim arising out of or relating to Seller's service, repair, or manufacturing work, Buyer will, to the fullest extent permitted by law, defend, indemnify and hold Seller and Seller's subcontractor harmless for all damages, costs, attorneys' fees, and expenses in connection with such action, arbitration, or proceeding, unless it is finally adjudicated that Seller and Seller's subcontractor was solely negligent or solely at fault. Seller and Seller's subcontractor shall also be named as additional insureds on Buyer's insurance, which shall afford primary coverage to Seller and Seller's subcontractor. Seller and Seller's subcontractor shall be entitled to representation by counsel of their own choosing at Buyer's expense.

12. Taxes and Other Charges. Buyer will pay any manufacturers' tax, retailer's occupation tax, use tax, sales tax, duty, custom inspection or testing fee, or any other tax, fee or charge of any nature whatsoever, imposed by any government authority, on or measured by any transaction between Seller and Buyer.