

TERMS AND CONDITIONS OF PURCHASES

1. **Background.** The Seller or Supplier (as identified in the related quote or Purchase Order) is interested in selling Esys Corporation those goods and/or services as more fully described in Seller's quote or Esys Corporation's Purchase Order, as applicable (the "Work"). These Terms and Conditions shall be deemed incorporated into Esys Corporation's Purchase Order for the Work whether or not specifically referenced therein. Unless otherwise expressly agreed in writing, all purchases are subject to the following terms and conditions:
2. **Prices.** All prices shall be as stated in this Purchase Order and are firm and not subject to escalation. Seller represents and warrants that the prices set forth in this Purchase Order are at least as low as those currently being quoted by Seller to commercial users for the same Work, in like quantities, under similar circumstances. If no price is stated for any Work, the price for the Work shall be the lowest price currently quoted or charged by Seller, but in no event higher than the price most recently quoted or charged to Esys Corporation by Seller for that Work.
3. **Taxes.** Unless otherwise provided in this Purchase Order, the price includes, and Seller shall pay, all excise, sales, use, transfer or other taxes, federal, state, and local, in connection with the sale or delivery (including, without limitation, all export duties, brokerage fees, insurance costs and any other costs associated with the delivery) of the Work to Esys Corporation.
4. **Terms Of Payment.** Unless Esys Corporation has otherwise agreed in writing, payment terms shall be net sixty (60) days from (i) the date Esys Corporation receives Seller's invoice, or (ii) the date the Work is delivered, whichever is later.

Notwithstanding the foregoing, to the extent that Seller is engaged as a subcontractor of Esys Corporation to provide Work for the benefit of a customer of Esys Corporation (an "Esys Customer"), payments to be paid by Esys Corporation will be made within 10 days after payment is received by Esys Corporation from such Esys Customer, which payment is a condition precedent to payment to the Seller so long as the Seller is not in default and the Seller has furnished to Esys Corporation all required sworn statements and waivers of lien for any previous payments to such Seller. Late invoices and documents can delay payments an additional 30 days. The final balance due Seller shall be payable on the date on which (i) is at least 30 days after completion and acceptance of all the Work, and (ii) Seller has proved to the satisfaction of Esys Corporation that (a) all labor, material, equipment or services, or any other obligation for which Seller is responsible, has been paid in full, (b) there are no liens or claims present or contingent, against the Work, Esys Corporation, or such Esys Customer, and (c) that the Work has received the approval of Esys Corporation's project manager of the Work and such Esys Customer and (d) a guarantee described in Section 21 has been received.

Esys Corporation reserves the right to pay either directly or by joint check, any creditor, laborer, fringe benefit fund, tax agency, supplier or subcontractor of the Seller for any debit or liability incurred by the Seller arising out of, or in connection with the performance of the Work, any such direct payment shall be considered payment to the Seller.

5. **Packaging and Shipment.** All shipments shall be packaged, marked, and otherwise prepared for shipment by Seller in suitable containers in accordance with sound commercial practices. Seller shall mark on all containers all necessary handling, loading, and shipping instructions, including but not limited to: Esys Corporation's Purchase Order number; Esys Corporation's item number and bar code; description of items contained and quantity therein. An itemized packing list shall be included with each shipment on the outside of shipping container.
6. **Delivery.** Esys Corporation's sale schedules are established in part in reliance upon the delivery information specified in this Purchase Order. The date specified (if any) is the date of arrival at Esys Corporation's

facility. Time and place of delivery are of the essence in the performance of this Purchase Order. Any provision for delivery in installments shall not be construed as making the obligations of Seller severable. If delivery cannot be made at the specified time and place, Seller shall promptly notify Esys Corporation of the earliest possible date for delivery. Notwithstanding such notice, and unless otherwise agreed by Esys Corporation in writing, Seller's failure to effect conforming delivery shall entitle Esys Corporation to revoke any acceptance, to cancel this order without liability to Seller, to receive a full refund on any amounts paid, to purchase substitute Work, to return at Seller's expense all or any part of a nonconforming delivery and to hold Seller accountable for any loss or additional costs incurred. Esys Corporation's receipt or acceptance of all or part of a nonconforming delivery shall not constitute a waiver of any claim, right or remedy Esys Corporation has under this Purchase Order or under applicable law.

7. **Title and Risk of Loss.** Title to the products supplied by Esys Corporation on which Seller is to perform the Work, shall at all times remain with Esys Corporation. Seller shall not at any time permit such products to become subject to any lien, including any lien of Seller, and shall identify such products as the property of Esys Corporation. Risk of loss on products or Work furnished by Seller shall pass to Esys Corporation upon receipt of shipment at Esys Corporation's premises.
8. **Inspection; Rejection; Remedies.** Esys Corporation may inspect and test the Work at reasonable times. All Work shall be received subject to Esys Corporation's inspection, testing, approval and acceptance at Esys Corporation's premises. In the event that Esys Corporation rejects any Work as not conforming to the Purchase Order, without limiting its other rights and remedies, Esys Corporation may, at its option (i) return nonconforming Work to Seller, at Seller's expense, and require Seller either to give Esys Corporation full credit against the price or promptly to repair the Work at Seller's expense, (ii) retain nonconforming Work and set off losses against any amount that Esys Corporation owes Seller or (iii) repair or replace nonconforming Work and charge Seller with the expense.
9. **Warranties.** In addition to any other express or implied warranties, Seller represents, warrants and agrees to Esys Corporation that (i) the Work shall be merchantable, of good material, workmanship, and quality, fit for the purposes for which Esys Corporation intends them and free from faults and defects; (ii) the Work shall conform in all respects with the formulae, specifications, directions, standards and other technical information communicated from time to time by Esys Corporation in written, or graphic form; (iii) the Work shall be delivered in a timely manner in accordance with this Purchase Order; (iv) the Work will not infringe any patent, copyright, trademark, service mark, trade secret or other intellectual property right of any third-party; and (v) the Work shall comply with all applicable federal, state, local and foreign laws, regulations standards and orders. These warranties shall survive any delivery, inspection, acceptance, payment or resale of the products and shall extend to Esys Corporation and Esys Corporation's customers. These warranties shall not be deemed to exclude Seller's standard warranties or other rights or warranties which Esys Corporation may have or obtain.
10. **Intellectual Property.** Seller acknowledges and agrees that all intellectual and industrial property provided to Seller by Esys Corporation, as well as the terms of this Purchase Order and the existence and content of the relationship between the Seller and Esys Corporation, shall be treated as confidential, and shall not be used or disclosed by Seller except as required in the course of performing this or other Purchase Orders for Esys Corporation. Seller shall not have any right, title or interest in any intellectual property, except that Seller is hereby granted the limited, revocable and non-transferable right to affix a physical rendering or facsimile of any intellectual property on products as directed in this Purchase Order. Esys Corporation shall have the sole right to establish specifications for use of the intellectual property. Seller agrees that it will not attempt in any manner to grant, convey, sell, assign or otherwise transfer any right, title or interest in any intellectual property to any other person or entity. Neither Seller

nor its affiliates shall, in any country, apply for or seek registration of any word, trademark, trade name or logo which is the same as or is confusingly similar to any Intellectual Property or which may be used in unfair competition therewith. Seller agrees not, and shall not permit its affiliates at any time, to design, manufacture, process, package, distribute or sell products on its own behalf or for others, which in any way simulate the appearance and design of any Products of Esys Corporation, other than as specifically authorized in this Purchase Order.

11. **Changes.** Esys Corporation may, at any time, by notice to Seller, make changes in specifications, designs, drawings, method of packing or shipments, quantity ordered, destinations and delivery schedules and Seller shall immediately comply therewith. If any such change causes a material increase or decrease in Seller's cost or the time for performance, Seller shall notify Esys Corporation in writing and if Esys Corporation instructs Seller to proceed, an equitable adjustment shall be made to the price or delivery schedule, or both. No change, modification or revision of this Purchase Order by Seller shall be binding upon Esys Corporation unless in writing and signed by Esys Corporation's duly authorized representative.
12. **Compliance with Laws.** Seller shall (i) comply with all applicable governmental laws, ordinances, codes, rules, regulations, programs, plans and orders in the performance of this Purchase Order, and (ii) obtain all permits or licenses required in connection with the Work. If in connection with the Work to be performed under this Purchase Order, Seller is required to comply with Occupational Safety and Health Act's hazardous communications standard (48 Fed. Reg.53280(1983)), Seller agrees to provide Esys Corporation with copies of the applicable Material Safety Data Sheets at the time of delivery to Esys Corporation's premises of the Work ordered hereunder which require such compliance, and any updates of such sheets required to be delivered by Seller to Esys Corporation under such laws and regulations and/or upon request. At Esys Corporation's request, Seller shall provide appropriate certificates of compliance. In addition, many countries have adopted laws relative to standardization and product certification applicable to various products. Seller warrants that Work covered herein are compliant with standards required under all applicable law, including, without limitation, the standardization and product certification requirements of any country.
13. **Cancellation.** In addition to its other rights pursuant to this Purchase Order, Esys Corporation may, by notice to Seller, cancel the whole or any portion of this Purchase Order in the event of: (i) proceedings, voluntary or involuntary, in bankruptcy or insolvency, by or against Seller; (ii) the appointment, with or without Seller's consent, of any trustee or receiver for any substantial portion of Seller's assets; (iii) any assignment for the benefit of Seller's creditors; or (iv) Seller's breach of any provision contained herein. In the event of any such cancellation, Esys Corporation may avail itself of those remedies existing as a matter of law, including those arising under the Uniform Commercial Code.
14. **Insurance.** Seller shall maintain with an insurance company or companies Comprehensive General Liability Insurance (including liability hereunder) in the minimum amount of \$1,000,000. At Esys Corporation's request, a certificate of such insurance shall be filed with Esys Corporation and shall provide for 10 days prior written notice to Esys Corporation of cancellation or material change. Liability insurance limits shall not be construed to limit Esys Corporation's right of indemnity hereunder.
15. **Customer Requirements.** Seller shall comply with the applicable terms and conditions of any agreements between Esys Corporation and any Esys Customer, to the extent applicable (the "Customer Purchase Orders"), to which Esys Corporation has agreed to sell to its Esys Customer goods or assemblies which incorporate the Work. This provision specifically includes costs and obligations imposed by warranty programs instituted by such Esys Customer that ultimately purchases the goods that incorporate the Work. Seller will be responsible to ascertain how the disclosed terms affect Seller's performance under the Purchase Order. By written notice to Seller, Esys Corporation may elect to disclose and have the provisions of the Esys Customer's purchase orders prevail over any term of the Purchase

Order at any time.

16. **Work to be Completed on Esys Corporation's Premises by Seller.** In the event that Seller is required, as a part of its fulfillment of the terms of this Purchase Order, to perform work or services on Esys Corporation's premises, Seller assumes entire responsibility and liability for (and shall indemnify and hold Esys Corporation harmless from) any losses, expenses, damage, demands and claims in connection with or arising out of any injury or alleged injury (including death) or damage to property, sustained or alleged to have been sustained in connection with or to have arisen out of the performance of such work or services by Seller.
17. **Supervision of Premises.** To the extent Seller is operating a job site as a subcontractor for the benefit of an Esys Customer as part of the Work, during the progress, Seller shall keep on such job site a competent supervisor and any necessary assistants, all satisfactory to Esys Corporation. If the Seller's supervisor and/or any of his assistants prove unsatisfactory to Esys Corporation, he/she, or they, shall promptly be replaced upon request. Such supervisor will be responsible to see that Seller's work is conducted in a cooperative and workmanlike manner, kept on schedule and coordinated with Esys Corporation. Once Seller's supervisor has been selected and begins work on this project, he/she shall not be replaced unless Esys Corporation approves the change.
18. **Safeguard and Cleaning of Premises.** To the extent Seller is operating a job site as a subcontractor for the benefit of an Esys Customer as part of the Work, the Seller will not subject any property, including any buildings or the equipment therein, to be loaded above and beyond design capacity with stored materials or construction equipment that would endanger the safety of personnel or the integrity of the structure. Seller will be held responsible for all damages that are caused by its work or workmen. In addition, the Seller shall keep all work area clean at all times during performance of the Work to the satisfaction of Esys Corporation, and upon completion thereof, shall promptly remove from the work areas all their debris and waste material at Seller's expense. If the Seller shall fail to clean up the work area and site to the satisfaction of Esys Corporation, Esys Corporation may perform the necessary clean up and charge Seller the cost thereof.
19. **Safety Provisions.** To the extent Seller is operating a job site as a subcontractor for the benefit of an Esys Customer as part of the Work, Seller shall comply with the "Safety and Engineering Practices" as set forth in the "Manual of Accident Prevention in Construction" as published by the Associated General Contractors of America. Seller agrees, without reservation, to comply with and support all federal, state, and local occupational safety and health regulations, rules and standards and the requirements or the references contained therein. Seller further agrees to comply with and support the Esys Corporation's principal contractors and Esys Corporation Health and Safety Program requirements that are applicable to the Work. Esys Corporation shall be immediately notified and copied on all OSHA citations and accident reports, and Seller shall immediately correct or remedy non-confirming practices or installations.
20. **Completion of Work.** To the extent Seller is operating as a subcontractor for the benefit of an Esys Customer as part of the Work, should the Seller become insolvent, or at any time during the performance of this contract, neglect or refuse, the opinion of Esys Corporation, to supply sufficient properly skilled workmen, or materials of proper quality, or fail in any respect to execute the work with promptness and diligence, or fail in the performance of any agreements contained herein, Esys Corporation may provide any such labor or materials to complete the Work under this contract and deduct the cost thereof from any monies then due or thereafter to become due the Seller hereunder.

In the alternative, Esys Corporation may terminate Seller for the said Work and enter upon the premises and take possession for the purpose of completing the Work, all materials, tools and appliances necessary to finish the Work. In the case of such termination of Seller, Seller shall not be entitled to receive any further payment hereunder

until the said Work shall be wholly finished, at which time, if the unpaid balance of the amount to be paid hereunder shall exceed the expense incurred by Esys Corporation in finishing the Work, such expenses shall be paid by Esys Corporation to the Seller. If such expense shall exceed the unpaid balance, Seller shall pay the difference thereof to Esys Corporation. In case of termination, no allowance is to be made for anticipated profit on that portion of the work not complete.

21. **Subcontractor Guarantee.** The Seller shall guarantee that all labor, materials and Work performed is in accordance with the requirements hereunder. To the extent that any defect should develop during the respective guarantee periods for certain trades, materials, or Work as stated herein due to improper materials, workmanship or arrangements, the same will promptly upon written notice from Esys Corporation be remedied by Seller. This guarantee shall be presented in a form acceptable to Esys Corporation in writing at the completion of the Work. The effective dates shall be from the date the Work was acceptable to Esys Corporation and be for a period of not less than 1 year. If the Seller does not respond to Esys Corporation's request for warranty work, Esys Corporation has the option to complete the work and back charge this Seller, in addition to any other rights provided hereunder.
22. **Set-Off.** In addition to any right of set off or recoupment provided by law or any other agreement, all amounts due to Seller will be considered net of any indebtedness or obligations of Seller to Esys Corporation. Esys Corporation will have the right to set off against or to recoup from any payment or other obligation owed to Seller from Esys Corporation, in whole or in part, any amounts due to Esys Corporation from Seller, however and whenever arising, and whether or not Seller has assigned to another party ("Assignee") any rights to receive such amounts. All such rights of an Assignee are subject to all of the terms of this Purchase Order, any other agreement between the parties and to all claims and defenses that Esys Corporation at any time has against Seller, whether arising under this Agreement or any Purchase Order or otherwise.
23. **Severability.** In the event that any one or more provisions contained in this Purchase Order shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. The remedies contained herein are cumulative and in addition to any other remedies at law or equity. Esys Corporation's failure to enforce, or waiver of a breach of, any provision of this Purchase Order shall not constitute a waiver of any other breach or of such provision.
24. **Indemnification.**
 - (a) Seller agrees to indemnify, hold harmless and defend at Seller's own expense, Esys Corporation's affiliates, subsidiaries, officers, employees, agents, subcontractors, licensees and customers against any loss, damage (including, without limitation, consequential damages), expense, liability or claims (collectively "Claims") to the extent that any such Claim is based on a charge (i) the Work performed was defective in any way, (ii) to the extent arising from a breach of this Purchase Order by Seller, or (iii) that, except to the extent the design or mark was provided by Esys Corporation, such Work infringes any patent, trademark, copyright or other intellectual property right, anywhere in the world (excluding Esys Corporation's intellectual property); or (iv) otherwise arising from Seller's acts or omissions.
 - (b) Esys Corporation agrees to indemnify, hold harmless and defend at Esys Corporation's own expense, Seller's affiliates, subsidiaries, officers, employees, agents, subcontractors, licensees and customers against any Claims to the extent that any such Claim is based on a charge (i) to the extent arising from a breach of this Purchase Order by Esys Corporation, or (ii) that any intellectual property Esys Corporation provides to Seller for purposes of the Products infringes any patent, trademark, copyright or other intellectual property right, anywhere in the world, or (iii) otherwise arising from Esys Corporation's acts or omissions.
25. **Additional or Inconsistent Terms.** Any term or condition set forth in any Purchase Order or acknowledgment or quote provided to Esys Corporation by Seller which is in any way different from, inconsistent with or in addition to the terms and conditions set forth herein will not become a part of this Purchase Order or be binding upon Esys Corporation, unless accepted by Esys Corporation in a separate writing. If Seller objects to any term or condition set forth herein, this objection must be in writing and received by Esys Corporation at the address stated on the opposite side prior to Seller's delivery. Esys Corporation's failure to object to terms contained in any communication from Seller will not be a waiver of the terms set forth herein. Seller shall not condition any delivery upon the abrogation or modification of any of the terms and conditions included in this Purchase Order.
26. **Entire Agreement.** The Purchase Order, these Terms & Conditions and the related Supply Agreement (if any) are the complete and exclusive statement of the contract between Esys Corporation and Seller with respect to Esys Corporation's purchase of the Work. 14.
27. **Assignment.** Seller shall not delegate or subcontract any duties or assign any rights or claims under this Purchase Order without Esys Corporation's prior written consent, and any such attempted delegation, subcontract or assignment shall be void.
28. **Governing Law.** This Purchase Order and the rights and obligations of the parties hereunder shall be governed by and interpreted, construed and enforced in accordance with the laws of the State of Michigan, United States of America, and the courts sitting in Oakland County, Michigan, or the U.S. District Court for the Eastern District of Michigan shall have exclusive jurisdiction and venue over any dispute arising hereunder. Seller irrevocably consents that such courts shall have personal jurisdiction and venue over Seller, and Seller waives any objection that any such court is an inconvenient forum. The United Nations Convention on Contracts for the International Sale of Goods shall not apply in any manner to the Purchase Order.
29. **Authorization.** Seller represents and warrants that it has been duly authorized to execute, deliver and perform this Purchase Order, and the person signing on the Seller's behalf has the power and authority to do so.