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TERMS AND CONDITIONS OF SALE

1. Scope. The Terms and Conditions ("Terms") contained herein shall apply to all quotations and offers made by and purchase orders accepted by Eltrol Corporation ("Seller") in connection with the sale of goods and services, including without limitation, hardware, firmware and software products, training, maintenance, engineering, parts, repair and remanufacturing services (hereinafter, "Products"). These Terms apply to all sales made by Seller except to the extent the Terms conflict with a Sales Agreement signed by Seller and Buyer. These Terms may in some instances conflict with some of the terms and conditions affixed to the purchase order or other procurement document issued by the Buyer. In such case, the Terms contained herein shall govern, and acceptance of Buyer's order is conditioned upon Buyer's acceptance of the terms and conditions herein, irrespective of whether the Buyer accepts these conditions by a written acknowledgement, by implication, or acceptance and payment of products ordered hereunder. Seller's failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions herein.

2. Order Acceptance. All purchase orders are subject to acceptance by Seller. A purchase order issued by Buyer and accepted and acknowledged by Seller shall be hereinafter referred to as an "Order."

3. Prices. The prices charged for Products shall be those stated on the Order. Unless otherwise specified by Seller, all prices are FOB Seller's plant in Carlsbad, California, within the U.S. and Ex Works (per current Incoterms) Seller's plant in Carlsbad, California, outside of the U.S. Prepaid freight charges, if applicable, and handling charges will be calculated using Seller's freight and handling charge rate list and added to the invoice. All prices are in U.S. dollars.

4. Taxes. Prices do not include any sales, use, excise, property, import, export or such taxes that may be levied on the transaction by local, state, federal or foreign governments. Any such taxes shall be the responsibility of Buyer. Taxes will be added by Seller to the invoice where Seller is required by law to collect them, and will be paid by Buyer unless Buyer provides Seller with proper tax exemption documentation in form and substance satisfactory to Seller.

5. Cancellation/Rescheduling. Buyer may not cancel or reschedule or refuse to accept delivery of all or any portion or installment of an Order without the express written consent of Seller which consent may be subject to Buyer's agreement to promptly pay appropriate cancellation charges levied by Seller. Such cancellation charges may include the recovery of all or a portion of the price of any installment of the Product as to which delivery has been refused, recovery of quantity discounts, the value of any work in process, the cost of any material purchased in order to manufacture the Products, and inventory holding and finance costs.

6. Delivery. Unless otherwise specified by Seller, all prices are FOB Seller's plant in Carlsbad, California, within the U.S. and Ex Works (per current Incoterms) Seller's plant in Carlsbad, California, outside of the U.S. Seller will select the carrier for shipments if Buyer does not. Shipment dates specified by Seller shall be approximate, and Seller shall incur no liability for failing to ship on such dates. Seller reserves its right to ship Products to Buyer in installments or separate lots. Partial shipments on quantity orders shall be deemed a separate and independent contract for billing.

7. Title/Risk of Loss. Title to hardware and risk of loss passes to Buyer upon delivery to carrier at shipping point.

8. Acceptance of Products. Products are deemed accepted by Buyer upon delivery, unless Seller receives a written notice of defect or nonconformity within five (5) business days after receipt by Buyer, provided, that such acceptance shall not relieve Seller of its warranty obligations hereunder.

9. Payment Terms. Unless Seller in its sole discretion otherwise specifies or agrees, Seller shall invoice Buyer upon shipment of Products covered by the invoice, and payment shall be due on the thirtieth (30th) calendar day after the date of invoice. Seller reserves the right to set forth other payment/credit terms or to change payment/credit terms if Buyer's financial condition changes or Buyer fails to make any payment when due. A service charge of one and one-half (1.5%) percent per month shall be paid by Buyer upon all late payments. Upon Buyer's failure to make any payment due, or to accept the Products hereunder, Seller may rescind the Order and Buyer shall, at Seller's request, return all goods delivered, if any, and pay to Seller liquidated damages in a sum equal to thirty percent (30%) of the list price of the Products, which Buyer agrees is the fair measure of damages.

10. Warranty. All hardware Products manufactured by Seller are warranted against defects in materials and workmanship for a period of one (1) year from the date of shipment.

In the event of any defects in materials or workmanship, or if the hardware fails during normal use to operate in accordance with the current published specifications, within the warranty period, Seller will, at its sole option, repair or replace the defective Products covered by this warranty without charge. To obtain warranty service, Buyer must contact Seller to receive a Return Materials Authorization (RMA) number prior to returning Products to Seller. No item which is claimed to be defective may be returned to Seller unless Seller's customer service department first authorizes such return. The defective Products must be returned within 30 days of the expiration of the applicable warranty period to Seller, properly packaged, and with

transportation and insurance prepaid by Buyer. Seller will pay the return shipping charges (ground) for Products that have been repaired or replaced under the warranty only to destinations in the United States. Buyer is responsible for paying the return shipping charges for destinations outside of the United States.

Any defect in materials or workmanship determined by Seller to be attributable to customer alteration, modification, negligence, or misuse is not covered by this warranty.

Material and workmanship used in the repair and replacement of Seller Products under this warranty are warranted additionally against defects for a period of ninety (90) days from the date of return of shipment to customer.

EXCEPT AS SET FORTH ABOVE, SELLER WILL MAKE NO WARRANTIES EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO SUCH PRODUCTS, AND SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.

11. Limitation of Liability. The total liability of Seller for any claim or damage, whether in contract or in tort, shall not exceed the price of the individual Product(s) whose defect or damage is the basis of the claim.

SELLER WILL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND, OR FOR LOSS OF REVENUE OR PROFITS, LOSS OF BUSINESS, LOSS OF INFORMATION OR DATA, OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE SALE, INSTALLATION, MAINTENANCE, USE, PERFORMANCE, FAILURE, OR INTERRUPTION OF ITS PRODUCTS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Software/Firmware License. Buyer is granted a non-exclusive, non-transferable license to use provided Seller's software or firmware only in object code form and solely in conjunction with Seller-provided hardware Products, with no rights to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the software or firmware. Computer software programs, including firmware, that may be included in or embedded within Seller-provided hardware Products sold to Buyer have been designed to perform a given set of tasks as defined in the documentation provided and is offered "AS IS." Buyer understands that such software programs are of such complexity that they may have inherent defects and that Seller makes no warranty that all software features will perform correctly as supplied.

13. Export Control. Buyer acknowledges that the Products and any technical data related to the Products may be controlled for export by the U.S. Department of Commerce or Department of State and that such items may require authorization prior to export from the United States or re-export. Buyer agrees that it will not export, re-export, or otherwise distribute the Products or any technical data related thereto, in violation of any export control laws or regulations of the United States.

14. Indemnification. Buyer shall indemnify and hold Seller harmless from any and all damages, fees and costs (including attorney's fees) on account of any claim that Products manufactured by Seller to specifications provided by Buyer infringe on any patent, trademark, registered design, or other form of protected intellectual property right. Buyer agrees to indemnify Seller (including paying all reasonable attorneys' fees and costs of litigation) against and hold Seller harmless from, any and all claims (including attorney's fees) by any other party resulting from Buyer's acts (other than the mere marketing of products and or services), omissions or misrepresentations, regardless of the form of action.

15. Cancellation by Seller. Seller may decline to make further shipments and/or cancel Buyer's order if Buyer is in default on payment or any obligation to Seller or in the event that Buyer becomes insolvent or bankrupt, makes a general assignment for the benefit of, or enters into any arrangement with creditors, files a voluntary petition under any bankruptcy, insolvency, or similar law, or has proceedings under any such laws instituted against it. In the event Seller is unable to perform, wholly or in part, because of any cause beyond its control, Seller may cancel an Order without any liability to the Buyer.

16. General. If any provision of the Terms contained herein is held to be unenforceable, the enforceability of the remaining provisions shall in no way be affected or impaired. Seller's failure to exercise any of its rights under the Terms contained herein shall not constitute a waiver or forfeiture of such rights. No waiver, alteration or modification of any of the provisions hereof shall be binding on Seller unless in writing and signed by duly authorized representative of Seller and Buyer. In any arbitration, action or other proceeding relating to the sale of Products hereunder, or the breach or interpretation hereof, the prevailing party shall be entitled to reasonable attorney's fees and costs, including investigative costs, as determined by the trier of fact. The Terms contained herein will be governed by and construed in accordance with the laws of the State of California, USA, without regard to the conflict of laws principles thereof.