

Terms and Conditions of Sale

The terms and conditions of this document apply to the sale of all products and services by BENTEK Systems Ltd. (referred to hereafter as BENTEK) including those listed on the www.scadalink.com or www.bentek.ca website and/or BENTEK Price Sheets. BENTEK will not accept any other terms and conditions of sale. Unless Buyer (interchangeably 'Purchaser') and BENTEK have executed a master contract which specifically supersedes and replaces these terms and conditions, acceptance of all purchase orders is expressly made conditional upon Buyer's assent expressed or implied to the terms and conditions set forth herein without modification or addition.

Acceptance

Buyer's acceptance of these terms and conditions shall be indicated by any of the following, whichever first occurs: (a) Buyer's making of an offer to purchase Product from BENTEK; (b) Buyer's written acknowledgment hereof; (c) Buyer's acceptance of any shipment of any part of the items specified for delivery (the "Products"); or (d) any other act or expression of acceptance by Buyer. BENTEK's acceptance is expressly limited to the terms and conditions hereof in their entirety without addition, modification or exception, and any term, condition or proposals hereafter submitted by Buyer (whether oral or in writing) which is inconsistent with or in addition to the terms and conditions set forth hereon is objected to and is hereby rejected by BENTEK. BENTEK's silence or failure to respond to any such subsequent or different term, condition or proposal shall not be deemed to be BENTEK's acceptance or approval thereof.

Conditions of Sale

i. Prices. The Purchaser agrees to pay BENTEK the amount shown on the invoice.

ii. Taxes. Prices charged or quoted do not include GST, provincial sales tax, customs duties or any other charges or levy charged or imposed on merchandise by any federal, provincial or municipal authority (collectively "taxes").

Federal, Provincial or Municipal taxes where applicable, will be added to the invoice where exemption documentation is not provided by the Purchaser.

Delivery Terms

i. Shipping Policy-F.O.B. Shipping Point. Shipping terms are F.O.B. BENTEK's warehouse. Transportation charges are **Collect** unless otherwise specified. If transportation is prepaid by BENTEK, shipping charges plus a small handling charge will be added to the invoice. BENTEK reserves the right to select the method of transportation and the routing of shipment. A purchase requiring shipment by a method or routing other than that selected by BENTEK will be billed the increase in transportation costs.

ii. Delivery. Delivery is subject to BENTEK's receipt of all necessary information and documentation from Purchaser including, shipping account #, all import certificates, exemption and and/or resale certificates, licenses and other documents as may be required from Purchaser for export of the products. Unless otherwise expressly agreed in writing, delivery of the product will be made F.O.B. BENTEK's warehouse and BENTEK reserves the right to make delivery in installment unless otherwise specified at the time of order.

iii. Loss or Damage on Shipments. All risk of loss or damage with respect to products shall pass to Purchaser upon delivery by BENTEK to the carrier or Purchaser's representative at BENTEK's warehouse. BENTEK shall not be responsible for any loss, damage or pilferage sustained in transit. Claims of such character or claims in respect to shortages or rejection should be made promptly by the Purchaser to the carrier and BENTEK in writing with sufficient detail of a claimed occurrence within five (5) business days after delivery. Valuation of shipment will be at carrier's standard rates unless otherwise specified by the Purchaser at additional cost.

iv. Delays. BENTEK shall not be liable for any shipment delays beyond the reasonable control of BENTEK which affect BENTEK or any of BENTEK's suppliers including, but not limited to, delays caused by unavailability of or shortage of products from BENTEK's suppliers, natural disasters, acts of war, acts of omission of Purchaser, fire, strike, riot or government interference, unavailability or shortage of materials, labor, fuel, or power through normal commercial channels at customary and reasonable rates; failure or destruction of plant or equipment arising from any cause whatsoever, or transportation failures.

v. Title. Delivery of goods to a carrier shall constitute delivery to the Purchaser and, regardless of freight payment and method, all risk of loss or damage in transit shall pass to the Purchaser at that time. Title to goods shall pass from BENTEK to the Purchaser when BENTEK has been paid in full and purchaser hereby grants to BENTEK a security interest in the goods until payment in full. All goods shall continue to be personally notwithstanding their mode of attachment to realty to other property. If default is made in any of the payments herein BENTEK may retain any partial payments which have been made, as liquidated damages and BENTEK shall be entitled to the immediate possession of the goods and shall be free to enter the premises where the goods may be located, and remove them as BENTEK's property, without prejudice to BENTEK's right to recover any further expenses or damages BENTEK may suffer by reason of such non-payment.

Terms of Payment

i. Terms. All prices quoted and all payments shall be in Canadian and/or US dollars unless otherwise specified.

All payments are due in accordance with the terms indicated on the BENTEK invoice. Prepayment is generally required for new or non-rated accounts. In the case of partial shipments and/or services being made at different times; pro-rated payments, and/or deposits shall be made and required.

The Purchaser agrees that should any payments not be made when due, then interest on such overdue payments shall be paid by the Purchaser at the rate of two (2%) percent per month from shipment date and/or service date, eighteen (18%) percent per annum until the price, including service charges, has been fully paid but this shall not be construed as obligating BENTEK to grant any extension of time in the terms of payment.

If legal action or any proceeding or demand is brought or made by BENTEK for recovery or possession of BENTEK Products or for the collection of any purchase price or other sums payable to BENTEK all expenses, incurred therein, including all solicitor's fees in respect thereof on a solicitor and client basis.

ii. Credit. Standard credit terms are net 30. Available credit line amounts are determined only by our credit department and depend upon credit history, trade references, financial statements and other business information we may require. BENTEK reserves the right to reject any orders placed by the Purchaser and refuse to ship any accepted orders on hand or request payment any time the Purchaser's credit standing becomes impaired or unsatisfactory to BENTEK. BENTEK reserves the right to review credit.

Special Conditions

i. Order Cancellation. An order may be terminated by the Purchaser only upon reimbursement to BENTEK of expenses already incurred and commitments made by BENTEK with respect to the order.

ii. Shortages. BENTEK reserves the right to reject orders placed by the Purchaser or to refuse to ship orders accepted in circumstances of actual or anticipated shortages of any product. BENTEK reserves the right to allocate available products among its customers in such circumstances and in such manner as BENTEK may determine.

General Provisions

i. Limitation of Liability. Notwithstanding any other provision herein or any applicable statutory provisions, BENTEK shall not be liable to the purchaser or to any end user for special or consequential damages or damages for loss of use arising directly or indirectly from any breach of contract, fundamental or otherwise including, without limitation, loss of computer time, loss of profit, loss of revenues. Failure to realize expected savings or other commercial or economic losses of any kind are in no event shall the liability of BENTEK exceed the unit price of the defective product or of the product subject to late delivery.

ii. Warranty. All manufactured BENTEK products come with a one-year limited warranty to the original purchaser and from purchase date. The products sold by BENTEK that are not manufactured by BENTEK will extend to the Purchaser the same warranty protection it receives from the manufacturer. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS EXPRESS IMPLIED OR STATUTORY AND BENTEK EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS WARRANTY EXCLUDES CERTIFICATION OR THE LIKE FOR EQUIPMENT PERFORMANCE, USE OF DESIGN WITH RESPECT TO ANY EQUIPMENT PERFORMANCE, USE OF DESIGN WITH RESPECT TO ANY STANDARD, REGULATION OR THE LIKE (UNLESS AND TO THE EXTENT THE PURCHASER). BENTEK SPECIFICALLY DOES NOT WARRANT THAT THE PRODUCTS SOLD BY BENTEK WILL MEET ALL OF THE PURCHASER'S AND/OR END USER'S REQUIREMENTS OR WILL OPERATE IN ALL OF THE COMBINATIONS WHICH MAY BE SELECTED FOR USE BY THE PURCHASER AND/OR THE END USER OF THAT THE USE OF THE PRODUCTS SOLD BY BENTEK WILL BE ERROR FREE OR FREE FROM DEFECTS.

iii. Force Majeure. BENTEK shall not be liable for loss or damages or delay due to causes beyond its control including but not limited to acts of God, acts of the Purchaser, fire, strikes, lockouts or other labor disruptions, flood, epidemics, civil or military restrictions, embargoes, car shortages, wrecks, delays in transportation or inability to obtain necessary labor. In the event of any such delay the delivery shall be extended for a period of time equal to the time lost by reason of the delay.

iv. Severability. Invalidity of any provision of this agreement shall not affect the validity of any other provision hereof and any such invalid provision shall be severed herefrom.

v. Non-waiver. No failure by BENTEK to exercise any right accruing to it under any contract of sales entered into with the Purchase(r) shall operate as a waiver thereof nor preclude the exercise of any other right or privilege by BENTEK.

vi. Entire agreement. There are no other terms of conditions applicable to the purchase and sale of BENTEK products and services other than those contained in the Sales Policy.

vii. Governing Law. All contracts for the sale of BENTEK products and services shall be governed and construed according to the laws of the Province of Alberta, Canada and the parties irrevocably attorn to the jurisdiction of the courts of Alberta, Canada.

viii. Notice. Any notice required or contemplated hereunder shall be in writing and shall be delivered personally or sent by

facsimile or other form of telecommunication or by prepaid mail. Any notice sent by facsimile or other form of telecommunication shall be deemed to have been received when transmitted and any notice sent by mail shall be deemed to have been received on the third business day following mailing.

Returns

BENTEK may accept returned merchandise in accordance with the policies and procedures set out on the BENTEK Web site only when approved in advance and when bearing a Returned Merchandise Authorization (RMA) number. The RMA number is obtained from BENTEK at the time of approval of the return. Such returns must be shipped transportation prepaid. Returned merchandise must be currently listed in original, sealed, factory cartons unless otherwise agreed to prior to return by BENTEK. Credit will be issued at current replacement price or purchased price at BENTEK's option and may be subject to a restocking charge of no less than 25% of current or purchased price or a minimum of \$50. Return of Products purchased hereunder, whether for stock balancing purposes or because such Products are claimed to be defective, shall be governed by BENTEK's [Product Return policies](#) as set forth in BENTEK's www.scadalink.com or www.bentek.ca website thereto in effect on the date of the invoice, or as otherwise provided by BENTEK to Buyer in writing. BENTEK reserves the right to modify or eliminate such policies at any time. Although BENTEK's policies may permit Buyer to return Products claimed to be defective under certain circumstances, BENTEK makes no representations or warranties of any kind with respect to the Products. BENTEK HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AS TO THE PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BENTEK WILL NOT BE LIABLE FOR ANY DAMAGE, LOSS, COST OR EXPENSE FOR BREACH OF WARRANTY. THE RIGHT TO RETURN DEFECTIVE PRODUCTS, AS PREVIOUSLY DESCRIBED, SHALL CONSTITUTE BENTEK'S SOLE LIABILITY AND BUYER'S EXCLUSIVE REMEDY IN CONNECTION WITH ANY CLAIM OF ANY KIND RELATING TO THE QUALITY, CONDITION OR PERFORMANCE OF ANY PRODUCT, WHETHER SUCH CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY OR CONTRIBUTION, THE FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE. In the event BENTEK issues a return authorization to Buyer allowing Buyer to return Product to BENTEK, Buyer will deliver the Product to BENTEK's address, if so required by BENTEK, and Buyer shall bear all applicable federal, provincial, municipal and other government taxes (such as sales, use and similar taxes) as well as import or customs duties, license fees and similar charges, however designated or levied on any replacement Product to be shipped by BENTEK to Buyer.

LIMITATION OF LIABILITY BENTEK SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES OR FOR ANY REASON FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE AGREEMENT TO SELL PRODUCT TO BUYER OR THE PRODUCT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST PROFITS, LOSS OF USE, LOST DATA OR FOR ANY DAMAGES OR SUMS PAID BY BUYER TO THIRD PARTIES, EVEN IF BENTEK HAS BEEN ADVISED OF POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY OR CONTRIBUTION, THE FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE.

General

These terms and conditions shall constitute the final, complete and exclusive agreement of the parties with respect to all sales by BENTEK to Buyer and shall supersede all prior offers, negotiations, understanding and agreements. Unless Buyer and BENTEK have executed a master contract which specifically supersedes and replaces the terms and conditions herein, it is expressly agreed that no prior or contemporaneous agreement or understanding, whether written or oral, shall contradict, modify, supplement or explain the terms and conditions contained herein. No additional or different terms or conditions, whether material or immaterial, shall become a part of any sales agreement unless expressly accepted in writing by an authorized officer of BENTEK. Any waiver by BENTEK of one or more of these terms and conditions or any defaults hereunder shall not constitute a waiver of the remaining terms and conditions or of any future defaults hereunder. No failure or delay by either party in exercising or enforcing any right hereunder shall operate as a waiver thereof or preclude any other exercise or enforcement of rights hereunder. Any provision of these terms and conditions that is prohibited or unenforceable under the laws of the Province of Alberta shall be ineffective to the extent of such prohibition or unenforceability, without impairing or invalidating the remaining provisions of these terms and conditions. All sales agreements shall be deemed made in, and shall be governed by, the laws of the Province of Alberta, Canada. The venue for any disputes arising out of any sales agreement shall be, at BENTEK's sole and exclusive option, Calgary, Alberta, Canada or the courts with proper jurisdiction at Buyer's location. For Buyers situated in Alberta, Canada to the extent permitted by law, Buyer hereby waives its rights, benefits or protection given to Buyer in the Judicature Act and the Seizures Act (Alberta, Canada). For Buyers situated in Saskatchewan, Canada Buyer agrees that the Limitation of Civil Rights Act shall have no application to these terms and

conditions of sale. These terms and conditions of sale shall ensure to the benefit of and shall be binding upon BENTEK, the Buyer and their respective successors and assigns. BENTEK shall not be liable for loss or damages or delay due to causes beyond its control including but not limited to acts of God, acts of the Buyer, fire, strikes, lock outs or other labor disruptions, flood, epidemics, civil or military restrictions, embargoes, car shortages, wrecks, delays in transportation or inability to obtain necessary labor. In the event of any such delay, the delivery shall be extended for a period equal to the time lost by reason of the delay. Any notice required or contemplated hereunder shall be in writing and shall be delivered personally or sent by facsimile or other form of telecommunication or by prepaid registered mail. Any notice by personal delivery or facsimile or other form of telecommunication shall be deemed to have been received when delivered or transmitted receipt confirmed) and any notice sent by registered mail shall be deemed to have been received on the second business day following mailing. ALL SALES TRANSACTIONS EXCLUDE THE APPLICATION OF THE 1980 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, IF OTHERWISE APPLICABLE.

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