

## HURRICANE TECHNOLOGIES, INC. UNIVERSAL TERMS AND CONDITIONS

**BY ORDERING AND/OR ACCEPTING DELIVERY OF PRODUCTS AND/OR SERVICES FROM HURRICANE TECHNOLOGIES, INC. (referred to as “us”, “we” or “our”), PURCHASER (referred to as “you”, “your” or “yours”) AGREES ACCEPTS AND AGREES TO BE BOUND BY THESE TERMS AND CONDITIONS OF SERVICE AND SALE.**

**Invoice.** These terms and conditions are attached to and form a part of the Invoice pursuant to which you purchased products and/or services from us. These terms and conditions will govern and control your purchase, except to the extent expressly provided otherwise in the Invoice, in which case those terms and terms of the Invoice will govern and control.

**Payment Terms and Taxes.** You agree that our obligations to you are contingent upon your payment to us of all amounts when due. All purchases are payable within thirty (30) days from the Invoice date. In the event that any portion of any payment is not paid when due, you will be subject to a late fee at the rate of 2% per month on such amount until paid. You agree that you are responsible for all taxes arising from your purchase of goods or services from us.

**Returns/Refunds.** We accept product returns for a cash refund, with your original receipt, within 30 days following the date of purchase, only for unopened new products. We accept no other returns or provide for any other refunds or any exchanges.

**Termination/Cancellation.** We will not provide any refunds or exchanges or return any downpayments or deposits in the event that you cancel or terminate any order for products or services, and you will not be relieved of any liability to us as a result of your cancellation or termination, nor shall you be relieved from any liability to us under the Invoice or these terms and conditions. You agree to reimburse us for all costs, expenses and losses incurred by us, directly or indirectly, as a result of such cancellation or termination, including attorney’s fees and disbursements.

**Limited Warranty.** With respect to new products, we pass through to the customer whatever end-user warranty the manufacturers or software publishers provide with their respective products, and we do not warrant the performance or integrity of any product. You agree to abide by all license provisions or end user-agreements imposed by the manufacturer or publisher. Custom ordered hardware products come with a 90-day limited warranty during which we will repair any hardware products returned to us that prove to be defective in materials or workmanship. We use new and refurbished parts made by various manufacturers in performing warranty repairs and in building replacement parts and systems, which are inspected and tested for quality. Replacement parts and systems are covered for the remaining period of the limited warranty. We will own all parts removed from repaired products. If we are not able to repair the product, we will replace it with a comparable product that is new or refurbished. If we determine that the problem is not covered under this warranty, we will notify you and offer you with the service alternatives available to you on a fee basis. This limited warranty covers defects in materials and workmanship in the hardware products. We provide no warranty for software products, including the operating system and software added to the hardware products through your custom ordered third-party software, or the reloading of software. There is no warranty in the case of problems that result from external causes such as accident, spilled liquids, abuse, misuse or intentional or negligent physical damage; problems with electrical power; servicing provided by anyone other than us; usage that is not in accordance with product instructions; failure to perform preventive maintenance in accordance with product instructions; problems caused by using accessories, parts, or components not supplied by us; products with missing or altered serial numbers; and products for which we have not received payment in full.

**Removal.** You are solely responsible for any of your confidential, proprietary, or personal information; lost or corrupted data; or damaged or lost removable media resulting from any services provided by us.

**Service Fees and Terms.** All services performed by us that are not covered by the limited warranty shall be at our then standard service fees and terms.

**Separately Purchased Service Contract.** If you purchased a separate service contract with us, including prepaid block hours, service will be provided to you under the terms of that service agreement. These terms and conditions shall apply to the extent not inconsistent with or contrary to the terms of your service agreement.

**Delivery Estimates.** All estimates set forth on the Invoice for the delivery date of a product and/or performance of a service by us represent a reasonable period of time to deliver the product and/or perform the service in the ordinary course of our business practices. However, sometimes a situation arises where the time to deliver a product or perform a service will exceed the estimate and therefore we do not guaranty any delivery date.

**Warranty Disclaimer.** EXCEPT FOR THE LIMITED WARRANTY PROVIDED HEREIN, WE MAKE NO AND EXPRESSLY DISCLAIM ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE SHALL HAVE NO LIABILITY BEYOND THE REMEDIES PROVIDED FOR IN THIS LIMITED WARRANTY. WE DO NOT MAKE ANY WARRANTIES WHATSOEVER WITH RESPECT TO SOFTWARE, INCLUDING BUT NOT LIMITED TO THAT THE FUNCTIONS OF ANY SOFTWARE WILL MEET YOUR REQUIREMENTS. YOU ASSUME SOLE RESPONSIBILITY FOR SELECTING THE SOFTWARE TO ACHIEVE YOUR INTENDED RESULTS AND FOR THE USE AND RESULTS OBTAINED FROM THE SOFTWARE.

**Indemnification.** You agree to indemnify us and our officers, directors, employees and agents and hold each of us and them harmless from and against any and all claims or demands made by any third party due to or arising from your purchase or use of any product or service purchased from us or in connection with your violation of these terms and conditions or the terms and conditions of the Invoice and any service contract, or arising from your violation of any rights of a third party. You agree to pay for all attorney's fees and expenses incurred by us in connection with such indemnification obligation.

**Limitation of Liability.** IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD PARTY, INCLUDING BUT NOT LIMITED TO YOUR CUSTOMERS OR CLIENTS, FOR LOST PROFITS, LOSS OF BUSINESS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. IN NO EVENT WILL WE BE LIABLE FOR PRODUCTS OR SERVICES NOT BEING AVAILABLE OR FOR LOST OR CORRUPTED DATA OR SOFTWARE OR THE PROVISION OF SERVICES BY THIRD PARTIES. YOU AGREE THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCTS OR SERVICES PROVIDED BY US, WE WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE DOLLAR AMOUNT PAID BY YOU TO US FOR THE PRODUCT(S) OR SERVICE(S) GIVING RISE TO THE CLAIM.

**Governing Law.** These terms and conditions will be construed, interpreted, governed and enforced under and pursuant to the laws of the State of New York, without regard to the rules of conflicts of laws, regardless of your location. Any dispute brought by you regarding the Invoice or these terms and conditions must be brought in the federal or state courts located in Monroe County, New York, and you submit to personal jurisdiction of such courts, and waive the right to change venue or to claim that such venue is inconvenient. You agree that such venue is appropriate and that our agreement to sell and deliver products and services to you is conditioned and dependent on this provision.

**Reliance.** You understand and agree that we would not sell you any products or services without your acceptance of and agreement to be bound by these terms and conditions.

**Notices.** All notices or other communications required or permitted to be given under the Invoice, these terms and conditions or any service contract shall be provided to the other party at the address set forth on the Invoice, or such other address as either party shall provide to the other, sent by certified or registered mail, return receipt requested, postage prepaid.

**Headings.** All headings contained in these terms and conditions are for convenience of reference only and shall not be used to interpret these terms and conditions.

**Severability.** If any provision of the Invoice, these terms and conditions or any service contract are held to be invalid or unenforceable in any respect, it shall not effect the remainder of the Invoice, these terms and conditions or any service contract.

**No Assignment; Binding.** You may not assign the Invoice, any of these terms and conditions or any service contract, directly or indirectly, without our prior written consent, which shall be in our sole discretion. The Invoice, these terms and conditions and any service contract are binding on you and your beneficiaries, legal representatives, successors and permitted assigns.

**Entire Agreement.** These terms and conditions constitute the entire agreement among you and us, except as otherwise provided in the Invoice or any service contract or in a separate agreement executed by you and us.