

APPLANIX CORPORATION
TERMS AND CONDITIONS OF SALE

UNLESS A SEPARATE SIGNED WRITTEN AGREEMENT GOVERNS THIS SALE, ALL PRODUCT PURCHASES, PURCHASE ORDER ACCEPTANCES, ACKNOWLEDGMENTS, QUOTES AND INVOICES ARE EXPRESSLY CONDITIONED UPON BUYER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS. ANY PREPRINTED OR HANDWRITTEN TERMS AND CONDITIONS ON BUYER'S PURCHASE ORDER FORM OR SIMILAR BUYER DOCUMENTATION SHALL HAVE NO FORCE OR EFFECT. BUYER HEREBY WAIVES AND AGREES TO WAIVE ANY SUCH BUYER TERMS, INCLUDING WITHOUT LIMITATION THOSE THAT ARE IN ADDITION TO OR INCONSISTENT WITH THESE TERMS AND CONDITIONS.

1. ACCEPTANCE BY BUYER-ENTIRE AGREEMENT. The terms and conditions set forth herein ("**Terms**") shall constitute the entire agreement between Applanix Corporation ("**Applanix**") and the person or entity purchasing products ("**Products**") or Support, Fixes or Professional Services (as each is defined below, and collectively, "**Services**") hereunder ("**Buyer**") with respect to Buyer's purchase of Products and Services. Acceptance of Buyer's order by Applanix is expressly conditioned on Buyer's consent to these Terms. Such consent shall be conclusively determined by any of the following means: (i) acceptance or acknowledgment by Buyer of the receipt of these Terms without written objection; or (ii) payment for or acceptance or use of Applanix's Products or Services provided hereunder. The issuance of future purchase orders by Buyer without a separate agreement signed by both parties shall conclusively establish a course of dealing in which these Terms form a binding contract.

2. PURCHASE ORDERS. All purchase orders for Products shall be in English and on Buyer's letterhead and include the following information: (i) Products (and quantities) and Services; (ii) prices; (iii) shipping instructions (if any); (iv) Applanix quotation number; (v) requested delivery/performance date; and (vi) information for export authorization, if applicable, as requested by Applanix. Any additional terms and conditions on such purchase orders or similar Buyer documentation shall have no force or effect.

3. PRICES AND TAXES. Any quoted prices are estimates only. Prices do not include any federal, state, provincial, municipal or other government, excise, use, occupational, value added, property or other taxes or duties now in force or enacted in the future. Any such tax, fee or charge imposed by any government authority on the transaction between Applanix and Buyer shall be paid by Buyer in addition to the prices quoted or invoiced. If Applanix is required to pay any such tax, fee or charge, at the time of sale or thereafter, Buyer shall reimburse Applanix. Applanix reserves the right to increase prices to cover any price increases in materials, delivery charges or other expenses as of the delivery date.

4. DELIVERY. Delivery will be made FCA (Incoterms 2010) Applanix's facility. The time of delivery is the time the Product to be delivered is made available to the carrier. Applanix shall use commercially reasonable efforts to deliver

Products on the date indicated on the applicable purchase order but shall not be liable for any failures to meet such date. Subject to the terms of Section 6 (Security Interest) and 10 (Proprietary Rights) below, title and risk of loss of the Products shall pass to Buyer upon delivery to the carrier. All Products are deemed accepted upon receipt by Buyer.

5. SHIPMENT. In the absence of specific shipping instructions, Applanix will ship by the method it deems most advantageous in standard commercial packaging. Transportation charges will be paid by Buyer, or if prepaid, will be later invoiced to Buyer. Buyer is obligated to obtain insurance against damage to the material being shipped. Applanix reserves the right to make partial deliveries.

6. SECURITY INTEREST. Applanix shall retain a first-priority purchase money security interest in all Products sold to Buyer until the purchase price has been paid in full. Applanix is authorized to file these Terms, any purchase order submitted under these Terms, and any other forms, financing statements or other documents necessary to perfect Applanix's security interest. Buyer agrees to provide any information (e.g., copies of its certificate of incorporation or extraprovincial registration to confirm location for UCC or registry purposes), and execute any such documents, and otherwise assist Applanix, to perfect such interest without charge to Applanix. Buyer hereby ratifies any such filings previously made by Applanix in connection with security interests in Products. In the event of default by Buyer of any of its obligations to Applanix, Applanix shall have the right to repossess the Products sold without liability. In such event, Buyer agrees to make the Products available to Applanix so that Applanix can repossess them without a breach of peace.

7. PAYMENT. Unless otherwise stated by Applanix in writing, and subject to credit approval, an invoice for thirty percent (30%) of the purchase price will be issued upon Applanix's acceptance of Buyer's purchase order with the remaining seventy (70%) invoiced upon delivery of the Products. All payments shall be made in a currency approved by Applanix within thirty (30) days of the date of the applicable invoice, unless otherwise specified in writing by Applanix. Applanix reserves the right to charge interest at the rate of one and a half percent (1.5%) per month (compounded monthly, or 19.5618% per annum) or the

maximum rate permitted by law, whichever is less, on all accounts thirty (30) days past due. Credit and payment terms are subject to change on future orders if Buyer has invoices that are sixty (60) days overdue. If Buyer fails to make full payment on time, Applanix shall have the right to cancel any unfulfilled purchase orders previously accepted by Applanix.

8. **SOFTWARE LICENSE.** All software (including software built into hardware circuitry as firmware, provided as a standalone Product, embedded in flash memory, or stored on magnetic or other media) and Fixes (as defined below) provided hereunder (collectively, "**Software**") is copyrighted and provided on a license basis only. Buyer acknowledges that its right to use Software is nonexclusive, nontransferable, and, if provided with hardware, limited to the use of such Software solely with the hardware Product with which it is provided. If any Software is accompanied by a separate end user license agreement ("**EULA**"), use of any such Software will be subject to the terms and conditions of the EULA (and Buyer agrees to be bound by the EULA), and the terms of the EULA (including any differing limited warranty terms, exclusions and limitations) will prevail in the event of any conflict with these Terms.

9. **RESTRICTIONS.** Products sold hereunder are for Buyer's internal use and Buyer shall have no right to resell the Products (or any Software delivered in connection therewith). Buyer shall not, and shall not allow any third party to: (i) disassemble or otherwise reverse engineer the Software or any other element of the Products or attempt to reconstruct or discover any code, underlying ideas, algorithms, file formats or programming interfaces of the Products or Software by any means whatsoever (except strictly to the extent that applicable law prohibits or restricts reverse engineering restrictions, and in such case only with prior notice to Applanix); (ii) modify or create derivative works of any Product or Software; (iii) remove or alter any Product or Software identification, proprietary, copyright or other notices placed upon, embedded in or displayed by the Products or their packaging or related materials; (iv) incorporate Products or Software into or combine Products or Software with any products or services of Buyer or a third party; (v) use any Products or Software for High Risk Activities (as defined below); or (vi) publicly disseminate performance information or analysis (including without limitation, benchmarks) from any source relating to the Products or Software.

10. **PROPRIETARY RIGHTS.** Notwithstanding anything to the contrary contained herein, Applanix and its suppliers have and will retain all rights, title and interest (including, without limitation, all patent rights, copyrights, trade secret rights, trademarks, service marks, related goodwill, and confidential

and proprietary information) in and to the technology, Software, designs, engineering details, schematics and similar data relating to or incorporated in the Products, Professional Services (defined below) deliverables, Software and copies, modifications and derivative works thereof. In addition, Buyer acknowledges that it is obtaining only a limited license right to any Software, and that irrespective of any use of the words "purchase", "sale" or like terms hereunder no ownership rights in Software are being conveyed to Buyer under these Terms or otherwise. For the avoidance of doubt, any transfer of title to Buyer shall only be with respect to the physical units of Products delivered hereunder, and not to any Software delivered in connection therewith.

11. LIMITED WARRANTY.

(a) Limited Warranty. Unless a Product is provided with a separate limited warranty granting different rights to the Buyer (including as set forth in a quotation, proposal, or EULA), Applanix warrants that such Product will substantially conform to Applanix's published documentation for such Product ("**Documentation**") on the date of order for a period of twelve (12) months from date of shipment from Applanix ("**Warranty Period**").

(b) Warranty Remedy. If Product fails to comply with the above limited warranty during the Warranty Period and Buyer notifies Applanix of such failure during the Warranty Period and returns such Product to Applanix as set forth below, Applanix's sole liability and Buyer's sole and exclusive remedy will be for Applanix, at its option, to use commercially reasonable efforts to repair or replace the nonconforming Product with new, equivalent to new, or reconditioned Product (at no charge to Buyer) or, if either of the foregoing is commercially impractical in Applanix's determination, refund the Product purchase price paid by Buyer (excluding separate costs of installation, if any). Unless otherwise specified in writing by Applanix, any repaired or replaced Product shall be warranted for the remainder of the original Warranty Period.

(c) Warranty Returns. Applanix's warranty remedy obligations are subject to Buyer's return of the nonconforming Product to Applanix in accordance with Applanix's product return procedures then in effect (including first obtaining a RMA number from Applanix) together with a complete description of the nature of the nonconformance. Products must be returned, transport prepaid, to the facility designated by Applanix (no C.O.D. or Collect Freight accepted) in original boxes and packing material, unless otherwise agreed by Applanix. Buyer shall bear the risk of loss and damage during shipping. All returns are subject to inspection. If a Product is not eligible for repair or replacement under the limited warranty, then

Applanix will notify Buyer. Buyer may (i) authorize the Product to be shipped back as is, at Buyer's expense, or (ii) request out-of-warranty service, as described in subsection 11(i) below. Title to all Products and/or parts returned to Applanix for which Applanix has delivered replacements to Buyer will transfer back to Applanix.

(d) Exclusions. Applanix has no obligations under this Section 11 (Limited Warranty) for Product nonconformance, defects or performance problems resulting from: (i) the combination or utilization of the Product with hardware or software products, information, data, systems, interfaces or devices not made, supplied or specified by Applanix; (ii) installation, configuration, interface, maintenance, storage or operation of the Product not in accordance with Applanix's applicable Documentation; (iii) the modification or misuse of the Product; (iv) damage caused by accident, lightning or other electrical discharge, fresh or salt water immersion (other than as described in the applicable Documentation) or exposure to environmental conditions for which the Product is not intended; (v) normal wear and tear on consumable parts (e.g., batteries); or (vi) cosmetic damage. Further, Applanix has no obligations under this Section 11 if Applanix is unable to confirm or reproduce the reported nonconformity.

(e) Warranty Disclaimer. Except for the limited warranty expressly set forth in this Section 11, ALL PRODUCTS AND SERVICES ARE PROVIDED "AS IS," AND NEITHER APPLANIX NOR ITS SUPPLIERS MAKE ANY EXPRESS, IMPLIED, STATUTORY OR OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT. BUYER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

(f) **NOTICE REGARDING PRODUCTS EQUIPPED WITH GPS TECHNOLOGY**. APPLANIX IS NOT RESPONSIBLE FOR, AND THE LIMITED WARRANTY IS NOT APPLICABLE TO, THE OPERATION OR FAILURE OF OPERATION OF GPS SATELLITES OR THE AVAILABILITY OF GPS SATELLITE SIGNALS.

(g) **NOTICE REGARDING USE OF PRODUCTS FOR HIGH RISK ACTIVITIES**. THE PRODUCTS ARE NOT FAULT TOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN LIFE SUPPORT, MEDICAL, EMERGENCY, MISSION CRITICAL, CONTROL OR GUIDANCE OF VEHICLES, DRONES OR OTHER UNMANNED MACHINES, OR OTHER STRICT LIABILITY OR HAZARDOUS ACTIVITIES ("**HIGH RISK ACTIVITIES**"). APPLANIX SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. BUYER REPRESENTS AND WARRANTS THAT BUYER WILL NOT

USE THE PRODUCTS (OR PERMIT THEM TO BE USED) FOR HIGH RISK ACTIVITIES, AND AGREES THAT APPLANIX WILL HAVE NO LIABILITY FOR USE OF THE PRODUCTS IN HIGH RISK ACTIVITIES. BUYER AGREES TO INDEMNIFY AND HOLD HARMLESS APPLANIX FOR ANY DAMAGES, LIABILITIES OR OTHER LOSSES RESULTING FROM SUCH USE.

(h) Non-Responsibility for Lost Data. Applanix will not be responsible for any modification or damage to, or loss of any programs, data, or other information stored on any media or any part of any Product serviced by it, or for the consequence of such damage or loss (e.g., business loss in the event of system, program or data failure). It is Buyer's responsibility, prior to seeking servicing, to backup data and remove all features, parts, alterations, and attachments not covered by warranty prior to releasing the Product to Applanix. Any repaired or replacement Product will be returned to Buyer with factory-default configuration.

(i) Out-of-Warranty Service. If Buyer wishes to receive out-of-warranty service, Buyer will notify Applanix and Applanix will provide Buyer with the estimated repair cost for the Product. If Buyer then agrees to receive such service, Buyer must issue a valid purchase order to cover the cost of the repair and return shipment as provided by Applanix. All such repairs will be performed as Professional Services pursuant to an SOW (as such terms are defined below).

12. TECHNICAL SUPPORT, SOFTWARE FIXES AND PROFESSIONAL SERVICES.

(a) Technical Support. Applanix shall provide the technical support services, extended hardware/firmware warranties, and software maintenance (as set forth in the relevant documentation made available to Buyer upon request to Applanix) ("**Support**") during such period as Buyer has paid the applicable fee.

(b) Software Fixes. During the Warranty Period Buyer will be entitled to receive such Fixes to Software that Applanix releases and makes available for no additional charge to users of the Software generally, in accordance with Applanix's standard Software delivery procedures. Receipt of a Fix shall not serve to extend the Warranty Period for Software or any Product. "**Fix**" means an error correction or other update developed to fix a previous Software version that does not substantially conform to its Documentation. For the avoidance of doubt, Applanix has no obligation to provide Buyer with any enhancements, new features or new or successor software products to the Software. Applanix reserves the right to determine, in its sole discretion, what constitutes a Fix.

(c) Professional Services. Applanix shall provide the number of person-hours of professional consulting, implementation and/or training services ("**Professional Services**") purchased in the applicable order. Professional

Services may be delivered pursuant to a statement of work, quote, or other mutually-agreed written description of Professional Services (“**SOW**”) describing, as applicable, the work to be performed, fees and any applicable milestones, dependencies and other technical specifications or related information. Each SOW must be signed by both parties before Applanix shall commence work under such SOW. Buyer will reimburse Applanix for reasonable travel and lodging expenses as incurred plus an additional five percent (5%) of such expenses.

13. CANCELLATION. An order or SOW may be canceled by Buyer only upon the payment of reasonable cancellation charges as determined by Applanix, which shall include, but not be limited to, expenses already incurred for labor and material costs, overhead, commitments made by Applanix, and a reasonable profit.

14. LIMITATION OF LIABILITY. APPLANIX'S TOTAL CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS AND THE PRODUCTS AND SERVICES PURCHASED HEREUNDER, WHETHER IN CONTRACT, TORT OR ANOTHER LEGAL THEORY, SHALL NOT EXCEED THE PURCHASE PRICE OF THE APPLICABLE PRODUCTS OR SERVICES. IN NO EVENT SHALL APPLANIX BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY BUYER, LOST PROFITS, LOSS OF DATA, OR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS, WHETHER OR NOT APPLANIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, AND HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR UNDER ANY THEORY OF LIABILITY WHATSOEVER. Without limiting the foregoing, the exclusions in this Section 14 shall apply to any liability which may arise out of third party claims against Buyer. The parties agree that the limitations specified in this Section 14 will survive at all times and apply even if any limited remedy specified in these Terms is found to have failed of its essential purpose.

15. CONFIDENTIALITY. Buyer will not use for any purpose other than the performance or administration of this Agreement, or disclose to anyone other than its attorneys, accountants, and other professional advisors under a duty of confidentiality except as required by law, the following types of information: (a) any terms of sale, including any prices or discounts offered by Applanix, or these Terms, (b) any information regarding the Products or Services, including without limitation Documentation and any other performance characteristics or specifications, (c) any information disclosed by Applanix regarding its business or technology, or (d) any information marked or indicated by Applanix as confidential. This Section shall survive any

termination or expiration of these Terms at all times. Buyer will defend, indemnify and hold harmless Applanix for any losses, damages, costs or expenses incurred by Applanix as a result of Buyer's breach of this Section 15.

16. BANKRUPTCY. If Buyer commences or has commenced against it any bankruptcy, receivership or other proceedings to settle Buyer's debts, makes any assignment for the benefit of creditors, becomes insolvent or ceases to do business, Applanix may cancel these Terms or any order by written notice without judicial intervention or declaration of default of Buyer and without prejudice to any other right or remedy of Applanix.

17. EXPORT RESTRICTIONS. Buyer acknowledges that the Products are subject to export restrictions by the United States and Canadian government and import restrictions by certain foreign governments. Buyer shall not and shall not allow any third-party to remove or export from Canada or the United States, or allow the export or re-export of any Product or part of any Product (including any Software delivered in connection therewith): (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders, the U.S. Treasury Department's list of Specially Designated Nationals, or any person prohibited by the *Special Economic Measures Act* (Canada) or the *United Nations Act* (Canada); (c) to any country to which such export or re-export is restricted or prohibited, or as to which the U.S. or Canadian government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, laws or regulations of any U.S., Canadian or foreign agency or authority. Buyer agrees to the foregoing and warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. Without limitation to any other restrictions in these Terms, Products are restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity, without the prior permission of the U.S. government and the Canadian government.

18. FORCE MAJEURE. Applanix shall not be liable for any loss, damage or penalty resulting from delay in delivery when such delay is due to causes beyond the reasonable control of Applanix, including, but not limited to, supplier delay, force majeure, acts of God, labor unrest, fire, explosion or earthquake. In any such event, the delivery date shall be deemed extended for the period equal to the delay.

19. AMENDMENTS AND WAIVERS. Changes to or waivers of these Terms shall be binding on Applanix only if in writing

and signed by a duly authorized representative of Applanix. The failure of Applanix to enforce any rights hereunder will not be construed as a waiver of any rights of Applanix.

20. APPLICABLE LAW. These Terms will be governed by and construed in accordance with the laws of the Province of Ontario, Canada, without reference to “conflicts of laws” provisions or principles. The parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods. Jurisdiction and venue of any dispute or legal action brought by either party arising under these terms and conditions, the Products provided under an order, or the commercial relationship of the parties, shall lie exclusively in, or be transferred to, the courts of the Province of Ontario, Canada (without limiting Buyer’s right to seek injunctive relief as it relates to Sections 9, 10 or 15). Buyer hereby submits, consents, and agrees not to contest such jurisdiction and venue. No dispute or legal action arising under this Agreement, may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two (2) years of the date of the last payment.

21. GOVERNMENT END USERS. To the extent any Software is included in the Products sold to Buyer, such Software is deemed to be commercial computer software. If the user or licensee of the Software is an agency, department, or other entity of any government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related Documentation, including technical data and manuals, is restricted by a license agreement or by the terms of this Agreement, and in respect of the United States Government strictly in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Software was developed fully at private expense. All other use is prohibited.

22. INDEPENDENT CONTRACTORS. The parties to these Terms are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party’s behalf without the other party’s prior written consent.

23. PURCHASE FROM RESELLERS. Notwithstanding anything to the contrary in these Terms, if Buyer purchased Products through an authorized Applanix reseller (“Reseller”), the following terms are applicable and shall prevail in event of any conflict with any other provisions of these Terms:

(a) Sections 2 (Purchase Orders), 3 (Prices and Taxes), 4 (Delivery), 5 (Shipment), 6 (Security Interest), and 7 (Payment) of these Terms shall not apply as between Buyer

and Applanix. Purchase of Products from Reseller shall be subject to Buyer’s placement of a purchase order with Reseller and payment to Reseller of applicable fees. Reseller will be responsible for fulfillment of all orders placed by Buyer to Reseller.

(b) Reseller has no authority to change or supersede these Terms or to issue any other Terms governing Buyer’s use of Products.

(c) Reseller has no authority to make any statements, representations, warranties or commitments on Applanix’s behalf and any such statements, representations, warranties or commitments are null and void.

(d) In the event Buyer is entitled to a refund under these Terms, Buyer must request such refund through Reseller. Any request sent directly to Applanix may be redirected to Reseller. Applanix will refund any applicable fees to Reseller and Reseller shall be solely responsible for refunding applicable fees to Buyer. Applanix shall have no further liability to Buyer in the event Reseller fails to refund such fees to Buyer.

(e) Buyer may purchase Professional Services under these Terms directly from Applanix pursuant to a separate order and SOW.

(f) If Reseller fails to pay Applanix license fees, if applicable, for Buyer’s use of Software, Applanix reserves the right to terminate the applicable EULA.

(g) Unless otherwise agreed by Applanix and Reseller, technical support, if any, for the Products shall be provided directly by Applanix, not Reseller.

(h) If Reseller is providing Buyer with consulting or other professional services related to the Products, such services shall be provided under the terms of a separate agreement between Reseller and Buyer. For clarity, the provisions regarding Professional Services in this Agreement apply solely to services provided by Applanix.

(i) These Terms shall survive any termination of Buyer’s agreement with Reseller so long as Applanix has received payment for purchased Products.

24. GENERAL. In this Agreement, except as the context otherwise requires, (a) headings and captions are for convenience only and will not be deemed to explain, limit or amplify the provisions hereof, (b) the word “including” or similar language, when following a general statement or term, is not to be construed as limiting the general statement or term (whether or not used in connection with phrases such as “without limitation” or “but not limited to”) and the word “or” will not imply an exclusive relationship between the matters, and (c) a reference to any legislation means that legislation and all regulations and orders promulgated thereunder, each as amended from time to time. The parties have requested and agree that this

Agreement and all documents relating thereto be drawn up in English. *Les parties ont demandé que cette convention ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.*

25. ASSIGNMENT. These Terms will bind and inure to the benefit of each party's permitted successors and assigns. Applanix may assign these Terms to any affiliate or in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of Applanix's assets or voting securities. Buyer may not assign or transfer these Terms, in whole or in part, without Applanix's written consent. Any attempt to transfer or assign these Terms without such written consent will be null and void.