

MITCHELL COMPUTER SERVICES, INC.'S
TERMS AND CONDITIONS FOR GOODS AND SERVICES PROVIDED

ENTIRE AGREEMENT: These terms and conditions, along with any proposal and/or invoices from Mitchell Computer Services, Inc. to Customer, shall constitute the entire agreement of the parties relating to the good(s) or service(s) ordered or provided by Mitchell Computer Services, Inc. ("Mitchell") to its customer ("Customer") and these terms and conditions shall supersede any other agreement whether written or oral. No modification of any part hereof shall be binding unless in writing and signed below. **DIFFERENT OR ADDITIONAL TERMS OR CUSTOMER'S RESPONSES ARE HEREBY REJECTED AND NO PRIOR OR SUBSEQUENT CONDUCT OF MITCHELL SHALL BE DEEMED TO BE AN ACCEPTANCE OF DIFFERENT OR ADDITIONAL TERMS.**

ACCEPTANCE OF OFFER: Mitchell's proposal to provide goods and/or services to Customer constitutes an offer by Mitchell. Customer may accept this offer in writing or by acceptance of all or part of the good(s) or service(s) from Mitchell, but such acceptance is expressly limited to the specific terms and conditions herein set out.

PAYMENT: All invoices shall be due and payable within such time frame as contained on the face of the invoice. **ANY AMOUNTS NOT PAID BY DUE DATE AS INDICATED ON THE FACE OF MITCHELL'S INVOICE TO CUSTOMER SHALL BE SUBJECT TO A FINANCE CHARGE OF 1-1/2% PER MONTH UNTIL PAID. THE RATE OF SAID FINANCE CHARGE BEING EQUIVALENT TO AN ANNUAL PERCENTAGE RATE OF 18% PER ANNUM.** In no event, however, shall the rate of the said finance charge exceed the highest rate permitted by law.

TAXES: Mitchell reserves the right to charge Buyer with the amount of any taxes which Mitchell may be required to pay or collect under any existing or future law upon or with respect to the sale, purchase, delivery, storage, processing, use, consumption, services or transportation of any of the products or goods sold.

DELIVERY: Manufacture, shipment and delivery shall be subject to any prohibition or regulation imposed by the Federal or any state or local government or any subdivision or agency thereof. Mitchell shall not be liable for any delay or failure to perform in whole or in part, directly or indirectly resulting from or contributed to by acts of God, war, riot, embargoes, acts of civil or military authorities, national emergencies, insurrection, or riots, fires, floods, strikes, work stoppage, accidents, casualties, inability to procure supplies and raw materials, delays in transportation, shortage of cars, or other causes beyond Mitchell's control.

NO RESPONSIBILITY FOR DATA LOSS OR ADDITIONAL MATTERS: Mitchell shall not be responsible for any data loss occurring as a result of repair efforts by Mitchell. Further, in connection with repairs, Mitchell shall not be responsible for additional issues not specified by Customer in the description of the problem(s) to be repaired.

NO RESPONSIBILITY FOR CORRUPT DATA: In connection with Mitchell providing data back up services to Customer, Mitchell shall not be responsible for the quality of data Customer provides and shall not be responsible for insuring that Customer's data being backed up by Mitchell is not corrupted prior to back up by Mitchell. In providing such services, Mitchell's sole responsibility shall be to back up such data as it exists with Customer. Mitchell's liability for providing such services to Customer shall be limited to the lesser of Customer's actual damages or one-month's charges to Customer for such services and Mitchell shall not be responsible to, nor indemnify, Customer or any third parties for any claims, losses, labor, expenses or damages, direct or consequential, resulting directly or indirectly from the performance by Mitchell of such services, including, without limitation, loss of profits because of increase operating costs, loss of information, loss of production or shutdown of operation or otherwise, or any liabilities, claims and damages because of personal injury, death or property damage related in any way thereto in excess of the limitation of damages herein provided.

CANCELLATIONS: The Contract resulting from Customer's order cannot be cancelled, terminated or modified by Customer in whole or in part, except with Mitchell's consent in writing and then only upon terms and conditions to be agreed upon which shall include protection of Mitchell against all loss direct and consequential.

LOSS OR DAMAGE IN TRANSIT: In case of loss or damage in transit or failure to receive shipment within a reasonable time, the consignee must immediately notify in writing the carrier's agent at destination and Mitchell. This action is necessary in order to preserve the right to recover damage from the carrier and to substantiate formal claim when presented. Title and risk of loss pass to Customer upon delivery of products to Customer or to carrier at shipping point. Mitchell shall not be liable for any damage, loss or expense resulting from anything occurring during, or attributable to transportation.

WARRANTIES: Mitchell warrants that it has absolute title and full right to transfer good and merchantable title to all good(s) and service(s) delivered or provided to Customer; that the good(s) are now and at the time of delivery shall be free of any security interest, lien or encumbrance; and that all good(s) and service(s) provided shall be free from defects in workmanship. Such warranties shall extend for the lesser of a period one (1) year or for such period as the manufacturer of the good(s) provides.

CLAIMS/WARRANTIES AND LIMITATION OF LIABILITY: Mitchell will not allow any allowances, deductions or return of products except by written permission of Mitchell. Mitchell shall not be liable to, nor indemnify, Customer or any third parties for any claims, losses, labor, expenses or damages, direct or consequential, resulting directly or indirectly from the

performance by Mitchell or the use of, or in ability to use the products sold or services provided hereunder, including, without limitation, loss of profits because of increase operating costs, loss of information, loss of production or shutdown of operation or otherwise, and liabilities, claims and damages because of personal injury, death or property damage. Notwithstanding the foregoing, products or services proving defective in material and/or workmanship per warranty will be repaired or replaced, or, at Mitchell's option, credit will be allowed for the original price thereof, provided written claim in respect of such products or services is made by Customer with reasonable promptness after delivery thereof and use of such products or services is promptly discontinued by Customer after discovery of defect. THE FOREGOING IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES OR REMEDIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY OTHER OBLIGATIONS OR LIABILITY ON THE PART OF MITCHELL.

REMEDIES: (a) Mitchell shall have all remedies allowed by law, including the Uniform Commercial Code's remedies; (b) Customer's sole remedy shall be limited to the repair or replacement of defective products or, at Mitchell's option, credit for the original price of the goods or services provided; (c) In case Customer shall fail to make payments in accordance with the terms as set forth herein, Mitchell, in addition to its rights and remedies under the law may at its option defer providing further goods or services until such payments are made, or may terminate any orders, and Customer shall not have any cause of action or be entitled to any off-set, counter-claim or recoupment against Mitchell by reason of any such action; (d) If the Customer shall fail to make payments in accordance with the terms of any invoice, Mitchell shall be entitled to reimbursement for all collection and related legal costs from the buyer in order to secure the payments due; (e) No failure of Mitchell to insist upon strict compliance by Customer with these terms and conditions or to exercise any right accruing from any default of Customer shall impair Mitchell's rights in case Customer's default continues or in case of any subsequent default by Customer.

WAIVER: Waiver by either Mitchell or Customer of a breach by the other of any provisions herein shall not be deemed a waiver of future compliance therewith; any such provisions shall remain in full force and effect.

GOVERNING LAW: This order shall be deemed made and performed in the State of Alabama. The construction, interpretation and performance of all transactions between Mitchell and Customer shall be governed by the law of the State of Alabama, including Alabama's version of the Uniform Commercial Code. Customer agrees and consents to the exclusive jurisdiction and venue of the District or Circuit Courts of Morgan County, Alabama, based upon their respective jurisdictional limits, in connection with any action between the parties and waives any objection based upon forum non conveniens.

SIGNATURES AND BINDING EFFECT: The parties acknowledge that signature, if required, may be in the form of facsimile and such shall satisfy the requirement of both a writing and signature to be binding otherwise this shall be binding in accordance with the terms set forth herein without signature.

NOTICES: Notices shall be sent by nationally recognized overnight courier at the addresses shown on the invoice or proposal and shall be effective the date of actual delivery.

RELATIONSHIP OF PARTIES: The relationship between the parties shall not be construed as creating any agency, joint venture or employment relationship.

ABANDONED PROPERTY: Any equipment provided to Mitchell by the Customer for repairs which is not picked up by Customer within thirty (30) days of delivery to Mitchell for repair shall be considered abandoned and shall become the property of Mitchell to be disposed of at Mitchell's sole discretion to cover any repair costs or materials.

ENTIRE AGREEMENT: This agreement constitutes the entire agreement between the parties and supersedes any oral or prior agreements or understandings. In the event any provision hereunder is deemed to be invalid or unenforceable the remainder shall not be affected.