



# CREDIT APPLICATION & AGREEMENT

## ENGENUITY USE ONLY

COMPANY  
ACCOUNT #  
BY:

APPROVED AMOUNT:  
DATE APPROVED:

FAX TO 480.782.5601 OR

## TELL US HOW TO CONTACT YOU AND WHERE TO SHIP - TO ENSURE OUR ACCURACY

COMPANY NAME  COMPANY PHONE

AP CONTACT NAME  AP CONTACT PHONE\*

AP CONTACT EMAIL\*  AP CELL PHONE\*

\* Invoices will be automatically emailed to this address unless there is a specific request for fax or mailing.

BILLING ADDRESS  CITY  ST  ZIP CODE

SHIPPING ADDRESS  CITY  ST  ZIP CODE

COMPANY WEBSITE  COMPANY FAX

## TELL US ABOUT YOUR COMPANY - TO BEST SERVE YOUR INTERESTS

TYPE OF BUSINESS  SIC CODE (if known)  YR. BUS. STARTED

COMPANY IS (select one):  CORPORATION  PARTNERSHIP  PROPRIETORSHIP  FRANCHISE

COMPANY IS (select one):  END USER  RESELLER RESELLER CERTIFICATE # (mandatory)\*   
\* Must attach a copy of Reseller Certificate.

IF DIVISION/SUBSIDIARY, NAME of PARENT COMPANY  YR. BUS. STARTED

DIVISION ADDRESS  CITY  ST  ZIP CODE

Name of Principal Responsible for Transactions  TITLE

TAX ID #  DUN & BRADSTREET # (if applicable)

# of EMPLOYEES  # of BRANCHES  ANNUAL SALES  \$0-1,000,000  \$1-5,000,000  \$5-10,000,000  \$10,000,000 +

## TELL US HOW YOU HEARD ABOUT US - SO WE KNOW YOUR PREFERENCES

WEBSITE LINK  TRADESHOW  EMAIL  ENGENUITY'S NEWSLETTER  WEB SEARCH ENGINE (list)

REFERRAL (list person or company)   OTHER (please describe)

Send the Marketplace Connector newsletter and occasional emails with Industry news, training info and special promotions

\* MANDATORY FIELD

TELL US WHOM TO CONTACT - SO WE CAN APPROVE YOUR APPLICATION

1. INSTITUTION NAME  ACCOUNT #   
BANK CONTACT  PHONE   
ADDRESS   
CITY  STATE  ZIP CODE  FAX

2. INSTITUTION NAME  ACCOUNT #   
BANK CONTACT  PHONE   
ADDRESS   
CITY  STATE  ZIP CODE  FAX

TELL US YOUR TRADE REFERENCES - TO EXPEDITE THE PROCESS

1. COMPANY NAME  ACCOUNT #   
CONTACT NAME  PHONE   
ADDRESS   
CITY  STATE  ZIP CODE  FAX   
ACCOUNT OPENED (MM/YYYY)  CREDIT LIMIT  CURRENT BALANCE

2. COMPANY NAME  ACCOUNT #   
CONTACT NAME  PHONE   
ADDRESS   
CITY  STATE  ZIP CODE  FAX   
ACCOUNT OPENED (MM/YYYY)  CREDIT LIMIT  CURRENT BALANCE

3. COMPANY NAME  ACCOUNT #   
CONTACT NAME  PHONE   
ADDRESS   
CITY  STATE  ZIP CODE  FAX   
ACCOUNT OPENED (MM/YYYY)  CREDIT LIMIT  CURRENT BALANCE

TRADE REFERENCES, CONTINUED

4. COMPANY NAME  ACCOUNT #   
CONTACT NAME  PHONE   
ADDRESS   
CITY  STATE  ZIP CODE  FAX   
ACCOUNT OPENED (MM/YYYY)  CREDIT LIMIT  CURRENT BALANCE

GIVE US YOUR PERSONAL GUARANTEE - EITHER BY SIGNATURE OR CREDIT CARD ASSURANCE

For consideration for the extension of credit by Engenuity Systems, Inc. I hereby personally guarantee payment of all charges made in connection with this account. This shall be a continual personal guarantee and shall not be affected by any modifications to this agreement with or without my consent. I further agree to provide updated financial information if requested by Engenuity Systems, Inc.

NAME  TITLE  PHONE   
ADDRESS  CITY  ST  ZIP CODE   
SOCIAL SECURITY #  DRIVER'S LICENSE #  ST   
SIGNED BY:  CURRENT DATE

If you elect not to sign the Personal Guarantee, we require a valid Credit Card that will be charged for the balance of any invoice that exceeds 30 days past your terms. We will send you a copy of the paid invoice when the Credit Card is charged.

CARDHOLDER'S NAME  TYPE OF CARD   
CARD #  EXPIRES (00/00/0000)  CSC# (4 DIGIT)

TERMS AND CONDITIONS

I hereby certify that the information contained herein is complete and accurate. This information has been furnished with the understanding that it is to be used to determine the amount and conditions of the credit to be extended. Furthermore, I hereby authorize the financial institutions listed in this credit application to release necessary information to the company for which credit is being applied for in order to verify the information contained herein.

All accounts are given Net 30 terms unless otherwise negotiated. Orders may be placed on hold for accounts that are past due. Overdue balances are subject to finance charges and/or late fees. Engenuity Systems, Inc. reserves the right to establish credit limits and to revoke charge privileges with or without notice. Engenuity Systems, Inc. standard terms and conditions apply to all orders.

PLEASE ALLOW 7-10 BUSINESS DAYS TO PROCESS YOUR APPLICATION.

FAILURE TO FILL OUT THIS FORM IN ITS ENTIRETY WILL RESULT IN A DELAY IN PROCESSING. IF YOU HAVE ANY QUESTIONS OR DIFFICULTIES FILLING OUT THE FORM, CALL 800.375.3363, OPTION 1 FOR HELP.

RESELLERS: To qualify for appropriate pricing level (and for tax purposes), attach a copy of your reseller certificate, if applicable.

To email the completed form, click on link at the top right hand corner of page one. To fax form, send to 480.782.5601. To send through the US Postal Service (this will add 2-3 days to the processing time), mail to Engenuity Systems, Inc. / 2165 W. Pecos Rd., Ste. 1 / Chandler, AZ 85224.

\_\_\_\_\_  
SIGNED BY

CURRENT DATE

**SALES POLICY:**

Engenuity Systems, Inc. accepts orders over the phone, by fax, email or at [www.engenuity.com](http://www.engenuity.com). Engenuity Systems, Inc. has the right to refuse any order.

**ORDER CONFIRMATION/ACKNOWLEDGEMENT:**

Engenuity Systems, Inc. will confirm the order via telephone, fax or email within one (1) business day. Engenuity Systems, Inc. has the right to fill all orders the day they are received. Unless instructed otherwise, partial shipments will be made. Acknowledgment of orders does not constitute acceptance of purchaser's terms and conditions (see Modification of Terms).

**PRICING:**

Pricing is subject to change without notice. Market sensitive commodity items will be priced according to current market conditions. There are circumstances where the price of particular items may change prior to shipment of an existing order. In these circumstances, the customer is responsible for the difference in price. Engenuity Systems, Inc. will make every effort to notify the customers prior to shipment of these products in the event of a price change; however, the order may not be cancelled.

**SALES TAX:**

Engenuity Systems, Inc. is required to charge applicable state and local tax on every item for which sales tax exemption certification has not been provided. When ordering, please indicate clearly which items are tax exempt. Please send a sales tax exemption certificate at the time your account is set-up.

***PAYMENT TERMS***

**ALL CUSTOMERS:**

All orders must be prepaid using a prepayment by check, credit card or COD. Customers may submit an application for an account, please see below. **COD orders** must be paid by company check or money order upon delivery of the goods by the shipping carrier. The minimum COD processing charge is \$15.00 per order and is added as a separate line item to the order. **Credit Cards** accepted are Visa, MasterCard, Discover and American Express. **Prepayments** by check or wire transfer are also accepted. For prepayment orders, shipping & handling charges must be included with the payment prior to the release and shipment of the order. Shipping charges will be calculated based on the estimated weight of the shipment, carrier and delivery time as determined by Engenuity Systems, Inc. and the customer. Minimum handling charges are \$5.00 per order. Wire Transfer fees are \$25.00 per transfer and added to the order as a separate line item. International customers please see international shipping section for additional shipping fees, terms and conditions.

**CUSTOMERS WITH TERMS:**

For customers with established credit, terms are net thirty (30) days from date of shipment. To obtain credit with Engenuity Systems, Inc., customers must submit an application for credit. Terms approval takes 7-10 business days for processing. All orders prior to terms approval must be prepaid using one of the above methods. Cash or anticipation discounts are not allowed. All payments must be in U.S. dollars. Terms are determined based on the credit check performed by Engenuity Systems, Inc. using the references provided by the customer. By submitting a credit application to Engenuity Systems, Inc., you authorize Engenuity Systems, Inc. to perform a credit check based on your company's trade references, Dunn & Bradstreet number, and bank information provided. Engenuity Systems has the right to deny credit terms to any current or potential customer. Terms will be reviewed and adjusted upon the request of the customer and/or at the discretion of Engenuity Systems, Inc.

**ORDERING REQUIREMENTS FOR CUSTOMERS WITH TERMS:**

A hard copy of the PO must be faxed or emailed to Engenuity Systems, Inc. Orders placed on the web site and/or over the phone with a purchase order number are accepted and are considered a formal purchase order and binding contract for payment.

- Accounts with balances over 30 days are subject to COD status and orders will be held until the outstanding balance of the account is paid.
- Accounts with balances over 45 days will be assessed a \$25.00 Collection Fee and subject to COD status and orders being held for non payment.
- Accounts with balances over 60 days will be place on prepayment only.

**US DOMESTIC SHIPPING & FREIGHT INFORMATION:**

Unless otherwise stated, freight and shipping fees will be charged to the customer for shipments to a customer's place of business anywhere in the contiguous United States, using a carrier of Engenuity Systems, Inc.'s choice. Other terms apply to Alaska, Hawaii, Puerto Rico, and export orders. The consignee must pay additional services, such as the customer's carrier or special handling by the carrier. Title and risk of loss pass to the customer upon tender of shipment to the carrier. If product is damaged in transit, consignee must file claim with the carrier.

- Products are FOB origin.
- Freight will be added to each shipment when the goods are shipped using one of Engenuity System Inc.'s account numbers. These costs are shown as a separate line item 'Shipping' on the invoice and must be paid by the customer.
- Handling fee of \$5.00 is added to each order, regardless of shipping method and/or shipping account number used.
- Engenuity Systems, Inc. may choose to drop ship products directly from the vendor to the customers for items not in stock at the Engenuity Systems, Inc. warehouse.
- Customers may ship their order using their own FED EX or UPS account number. If the customer chooses to use their own account, this must be clearly indicated on the customer's PO. For those customers choosing to ship on their own account, shipping charges will not be added to the invoice, handling charges will be added.

**SERVICES OFFERED:**

Engenuity Systems, Inc. uses FED EX and UPS as standard carriers for all goods sold. Unless otherwise directed, Engenuity Systems, Inc. will ship all orders using FED EX 3 Day Service, delivered by 4:30 PM in most locations. Other shipping services offered:

- FED EX First Overnight Service - delivered by 8:30 AM the next business day
- FED EX Priority Next Day Service - delivered by 10:30 AM the next business day
- FED EX Standard Next Day Service - delivered by 3:00 PM the next business day
- FED EX 2 Day Service - delivered by 4:30 PM the second business day.
- UPS Next Day Air Early AM - delivered by 8:00 or 8:30 AM the next business day
- UPS Next Day Air - delivered by 10:30, 12:00 or next business day
- UPS Next Day Air Saver - delivered by 3:00 PM next business day
- UPS 2nd Day Air A.M. - delivered by 12:00 PM noon on the second business day
- UPS 2nd Day Air - delivered by the end of the second business day
- UPS 3 Day Select - delivered within 3 business days
- UPS Ground - guaranteed delivery based on location of business address and shipping point

All services above are dependent on the business location. Not all services are offered for all locations. Customers may consult [www.fedex.com](http://www.fedex.com) or [www.ups.com](http://www.ups.com) for additional information about services and delivery dates and areas served. Shipping rates are the standard shipping rates found at [www.fedex.com](http://www.fedex.com) and [www.ups.com](http://www.ups.com).

**NON-STOCK ITEMS:**

Products that are not in stock at the Engenuity Systems, Inc. warehouse are considered special order items and may be subject to additional shipping and handling charges. This is especially true for products not manufactured in the United States and custom products. Engenuity Systems, Inc. or the vendor may impose minimum order quantities.

**VOLUME (OEM) ORDERS:**

Engenuity Systems, Inc. accepts volume purchase orders, commonly referred to as OEM orders, provided the order is placed with scheduled deliveries and meets specific requirements:

- Order must be placed for an agreed upon minimum quantity by the customer and Engenuity Systems, Inc.
- The minimum amount of pieces/shipment is determined by product and set by Engenuity Systems, Inc.
- Scheduled shipments must meet the minimum pieces/shipment criteria.
- The customer must accept the total order within a period of 9 months from placement of the order, depending on the number of pieces ordered as determined by Engenuity Systems, Inc.
- All orders categorized as a volume or OEM order are non-cancelable, non-returnable. Volume pricing will only be honored provided the minimum number of pieces per partial shipment is listed on the original PO and the account remains in good standing (see payment information).
- For more information on Volume and OEM orders, contact your Engenuity Systems, Inc. sales representative.

**ENGENUITY SYSTEMS, INC. LIMITED WARRANTY & DISCLAIMER:**

Engenuity Systems, Inc. is a distributor of products and believes that all information contained in the documentation sent directly to customers, contained on the Engenuity CD and posted on [www.engenuity.com](http://www.engenuity.com) is accurate without defects or misrepresentation. Engenuity Systems, Inc. does not guarantee the accuracy or completeness in the documentation provided by the manufacturers.

**LIMITED WARRANTY:**

Products sold are warranted by Engenuity Systems, Inc. only to customers for resale or for use in business or original equipment manufacturer, against defects in workmanship or materials under normal use. Warranty period is set by the manufacturer and typically stated on Engenuity System Inc.'s web site. The warranty period is effective from the date of purchase unless otherwise stated. Any part which is determined by Engenuity Systems, Inc. to be defective in material or workmanship and returned to Engenuity Systems, Inc. will be, as the exclusive remedy, repaired or replaced at Engenuity Systems, Inc.'s option.

**WARRANTY DISCLAIMER:**

No warranty or affirmation of fact, express or implied, other than as set forth in the limited warranty statement above is made or authorized by Engenuity Systems, Inc. Engenuity Systems, Inc. disclaims any liability for product defect claims that are due to product misuse, improper product selection or misapplication, and any product description does not express or imply a warranty that the products are merchantable or fit for a particular purpose. Engenuity Systems, Inc. will provide repair or replacement material as directed by the manufacturer, but there are no express warranties that extend beyond the description contained on the web site or within other distributed documentation.

**LIMITATION OF LIABILITY:**

Any liability for consequential and incidental damages is expressly disclaimed. Engenuity Systems, Inc.'s liability in all events is limited to, and shall not exceed, the purchase price paid. Engenuity Systems, Inc. expressly limits its liabilities to any guarantees extended by the manufacturer, which guarantees seller will pass through to the customer.

**IMPLIED WARRANTIES OF MERCHANTABILITY:**

Engenuity disclaims any implied warranties of merchantability. The products Engenuity Systems, Inc. offers are of a technical nature and proper training for their use is the responsibility of the customer. Engenuity Systems, Inc. is not responsible for misuse of the products and is not responsible for loss occurring because of misuse of the products or lack of proper training to operate the products. Terms of the Buyer or User's purchase order shall not supersede this disclaimer and no warranty, expressed or implied, other than stated herein, shall be effective unless contained in an agreement signed by an officer of Engenuity Systems, Inc. In addition, Engenuity Systems, Inc. shall not be liable for any consequential, contingent or incidental damages whatsoever.

**PROMPT DISPOSITION:**

Engenuity Systems, Inc. will make a good faith effort for prompt correction or other adjustment with respect to any product, which proves to be defective within warranty period. Engenuity Systems, Inc. must authorize the return of any product before accepting the product for a return. A Credit Order will be issued from one of Engenuity System Inc.'s technicians. If a product is returned to Engenuity Systems, Inc. without the proper authorization or paperwork, the shipment will be refused. The customer is responsible for the shipping charges back to Engenuity Systems, Inc. or the vendor, as determined by Engenuity Systems, Inc. The customer is responsible for shipping charges both ways if determined to be fault of the customer. When contacting Engenuity Systems, Inc. for a Return, please provide the date the product was purchased, date and number of original invoice, and a clear description of the defect. For products found not to be defective, the customer will be charged an amount associated with the time to inspect and test the product. Engenuity Systems, Inc. charges \$125.00/hour in these circumstances with a minimum charge of \$62.50.

**PRODUCT SUITABILITY:**

Many states and localities have codes and regulations governing sales, construction, installation, and/or use of products for certain purposes, which may vary from those in neighboring areas. While Engenuity Systems, Inc. attempts to ensure that its products comply with such codes, it cannot guarantee compliance, and cannot be responsible for how the product is installed or used. Before purchase and use of a product, please review the product application, as well as national and local codes and regulations, to be sure that the product, installation, and use will comply with them.

**NO WARRANTIES TO CONSUMERS:**

Engenuity Systems, Inc. makes no warranties to those defined as consumers in the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act.

**MANUFACTURERS' WARRANTIES:**

The manufacturer warrants its products to be free of defects in workmanship. The manufacturers make available copies of any applicable warranties. Engenuity Systems, Inc. will furnish such warranties free of charge to the customers upon their request. Please send requests to [tech@engenuity.com](mailto:tech@engenuity.com) or mail Engenuity Systems, Inc., Inc., Attention Technical Support, 2165 W. Pecos Rd., Ste. 1, Chandler, AZ 85224. All requests must include the Engenuity part number, and manufacturer's model number of each product for which a copy of the warranty is requested. Engenuity Systems, Inc. assumes no responsibility for the content of such warranties by performing this service.

**OTHER RETURNS:**

Due to the electronic nature of the components that Engenuity Systems, Inc. sells, all sales are final. Engenuity Systems, Inc. reserves the right to authorize some returns based on the product and the manufacturer's return policy. This is entirely at the discretion of Engenuity Systems, Inc. Customers must contact Engenuity Systems, Inc. to request a return. The request for return may be refused. For products that are authorized for a return, the return is subject to a minimum restocking charge of 20% and is only issued as a credit on the account. The customer is responsible for the shipping charges back to Engenuity Systems, Inc.

All goods returned must be in the original package, unopened and unused. Products sent to Engenuity Systems, Inc. without the proper return authorization will be refused. Products that are found to be used will either be returned to the customer without a credit or the customer will be charged for the technicians time to inspect and return the product to the original default settings. Engenuity Systems, Inc. charges \$125.00/hour in these circumstances with a minimum charge of \$62.50.

**CREDIT BALANCES:**

The customer agrees that any credit balances issued will be applied within one (1) year of its issuance. IF NOT APPLIED OR REQUESTED WITHIN ONE (1) YEAR, ANY BALANCE REMAINING WILL BE SUBJECT TO CANCELLATION, AND Engenuity Systems, Inc. SHALL HAVE NO FURTHER LIABILITY.

**FORCE MAJEURE:**

Engenuity Systems, Inc. shall not be liable for any delay in or impairment of performance resulting in whole or in part from Acts of God, labor disruptions, shortages, inability to procure product, supplies or raw materials, severe weather conditions, or any other circumstances or cause beyond the control of Engenuity Systems, Inc. in the conduct of its business.

**MODIFICATION OF TERMS:**

Engenuity Systems, Inc.'s acceptance of any order is subject to the customer's assent to all of the terms and conditions set forth in Engenuity Systems, Inc.'s Terms and Condition of Sale. Acceptance of these terms and conditions shall be presumed from the customer's receipt of goods and services. No addition or modification of terms and conditions shall be binding upon Engenuity Systems, Inc. unless agreed to by Engenuity Systems, Inc. in writing and signed by an officer of Engenuity Systems, Inc. If a purchase order or other correspondence contains terms or conditions contrary to the terms and conditions contained in Engenuity Systems, Inc.'s terms and conditions, Engenuity Systems, Inc.'s acknowledgment and acceptance of any order shall not be construed as assent to any additional terms and conditions, nor will that constitute a waiver by Engenuity Systems, Inc. of any of the terms and conditions contained within Engenuity's terms and conditions.

**WAIVER, CHOICE OF LAW AND VENUE:**

The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition will not constitute a waiver of that right or excuse any subsequent nonperformance of any such term or condition by the other party. The laws of the State of Arizona, excluding conflict of law rules, shall govern all transactions and venue shall be in Maricopa County, State of Arizona.

**NO THIRD PARTY BENEFIT:**

The provisions stated above are for the sole benefit of the parties hereto, confer no rights, benefits or claims upon any person or entity not a party hereto.

**LICENSE AGREEMENTS:**

Many products are shipped with license agreements; this is true for hardware and software products. By accepting the package and breaking the seal on these products, the customer accepts the terms and conditions of the license agreement. The customer is responsible for acknowledging and accepting these terms when using the product. Engenuity Systems, Inc. will not be held responsible or accountable for damage, copyright infringement or a violation of international treaties from the result of a customer breaching a license agreement.

**CANCELLATIONS:**

Any cancellation by the customer must be approved by Engenuity Systems, Inc. and may be subject to a restocking or cancellation charge. OEM and Volume Orders are non-cancelable.

**TRADEMARKS, COPYRIGHTS, AND DOMAIN NAMES:**

The customer acknowledges that it has no right, title, or interest in the trade names, trademarks, copyrights, or domain names of Engenuity Systems, Inc., and in the product names, and covenants that it will take no action to register or otherwise interfere with such rights of Engenuity Systems, Inc. The customer agrees that it will not copy the products sold to the customer or their packaging, trade press, catalogs, or websites.



**QUOTATIONS:**

Quotations on large quantities are available upon request. The customer should contact their Engenuity Systems, Inc. sales representative.

**EXPORT TERMS AND CONDITIONS:**

All the above terms and conditions hold true. In addition, the following additional terms and conditions apply to international customers.

**INTERNATIONAL SHIPPING INFORMATION:**

For customers outside the United States, a shipping account number must be provided to Engenuity Systems, Inc. to ship the products against. Carriers used are FED EX, UPS and DHL. Service depends on the carrier. All customs, duties, taxes and other international charges are the sole responsibility of the customer. In the event customers do not have a FED EX, UPS or DHL number, Engenuity Systems, Inc. may choose to ship the products using one of our account numbers. Products will be shipped using standard international service, unless otherwise directed by the customer. In circumstances where Engenuity Systems chooses to ship international orders on their carrier account, a credit card number must be provided to charge the freight, customs, duties and taxes against. A pre-authorization charge will be placed on the card for \$500.00 until Engenuity Systems, Inc. receives the bill for the freight, customs, duties and taxes. At that time, the correct charge will be placed on the credit card for the products and all charges related to the international shipment.

- Products are FOB origin.
- Freight and handling fees will be added to each shipment and be shown on the invoice as a line item 'Shipping' and must be paid by the customer unless the customer's account number is provided.
- Handling fee of \$20.00 may be added to each international order, regardless of shipping method and account number used.
- Engenuity Systems, Inc. may choose to drop ship products directly from the vendor to customers.
- Title and risk of loss pass to the customer upon tender of shipment to the carrier. If product is damaged in transit, consignee must file claim with the carrier.

**EXPORT CONTROLS AND RELATED REGULATIONS:**

The customer represents and warrants that it is not on, or associated with any organization on the United States Department of Commerce's Bureau of Industry and Security's Denied Persons List or Unverified List; or the United States Department of the Treasury's Office of Foreign Assets Control lists, Specially Designated Nationals, Specially Designated Global Terrorists, Specially Designated Narcotics Traffickers, Specially Designated Narcotic Traffickers-Kingpin, or Specially Designated Terrorists List; or the United States Department of State's Designated Foreign Terrorist Organizations, Embargoed Countries list, or Debarred Persons List; or is subject to a denial order issued by the United States Department of Commerce. The customer shall comply with all relevant laws and regulations of governmental bodies or agencies, including but not limited to all applicable export control laws of the United States or other governing agencies and their successors.

**FOREIGN PRINCIPAL PARTY IN INTEREST; FREIGHT FORWARDER AND DOCUMENTATION:**

It is specifically agreed that the customer shall be the foreign principal party in interest and/or that its freight forwarder shall act as the customer's agent in such capacity for Export Administration Act or other applicable purposes; and the customer and freight forwarder shall assume responsibility for all export or routed transactions documentation. At Engenuity Systems, Inc.'s request, the customer or its freight forwarder shall provide copies of any export, shipping, or import documentation prepared by the customer or its freight forwarder related to sales to them by Engenuity Systems, Inc.

**U.S. FOREIGN CORRUPT PRACTICES ACT:**

The customer acknowledges that it is an Independent Contractor, as defined in the next paragraph, and represents, warrants, and covenants that it has not paid, offered or agreed to pay, authorized the giving of, or caused to be paid, directly or indirectly, money or anything of value to any foreign official (as defined in the U.S. Foreign Corrupt Practices Act, as amended), in connection with the purchase and resale of the products ordered.

**INDEPENDENT CONTRACTORS:**

Engenuity Systems, Inc. and the customer are Independent Contractors and not principal and agent. Nothing construed or contained in these terms and conditions shall be construed to create a partnership, dealership, reseller, agency, employment or joint venture relationship. Without limiting the generality of the foregoing, the customer is not authorized to make, shall take no actions, and shall not make, any representations on behalf of, or which are binding upon, Engenuity Systems, Inc.

**GOVERNING LAW; LIMITATIONS:**

The rights and obligations of the parties under these terms and conditions shall not be governed by the provisions of the 1980 United Nations Convention of Contracts for the International Sale of Goods or the United Nations Convention on the Limitation Period in the International Sale of Goods. Rather, these terms and conditions shall be governed by the laws of the State of Arizona, United States, including its provisions of the Uniform Commercial Code, but excluding its conflict of law rules. Notwithstanding the foregoing, any legal action by the customer with respect to any transaction must be commenced within one year after the cause of action has arisen.

**SEVERABILITY:**

If any portion of these terms and conditions is found to be invalid or unenforceable by a court of competent jurisdiction, the invalid or unreasonable term shall be redefined, or a new enforceable term provided, such that the intent of Engenuity Systems, Inc. and the customer in agreeing to the provisions of these terms and conditions shall be enforceable to the fullest extent of the applicable laws.

**DISPUTE RESOLUTION:**

Actions by Engenuity Systems, Inc. for nonpayment by the customer of the purchase price of products sold by Engenuity Systems, Inc., or for redress of other breaches by the customer of these terms and conditions, may be brought by Engenuity Systems, Inc., at its option, before any United States or foreign judicial court of competent jurisdiction. At Engenuity's option, disputes between the customer and Engenuity Systems, Inc., including all claims for nonperformance by Engenuity Systems, Inc., shall be finally settled by arbitration in Chandler, Arizona, United States, in accordance with the Commercial Arbitration Rules of the American Arbitration Association, by a single arbitrator appointed in accordance with said Rules applying these terms and conditions and consistent provisions of the federal and state laws (except conflict of law rules) of the State of Arizona, United States, and the language of the arbitration shall be English.

**COUNTRY OF IMPORTATION AND ANTI-DIVERSION:**

The customer represents that it is purchasing products from the United States and importing them to the country specified in the customer's purchase order and Engenuity Systems, Inc.'s documentation. The customer agrees that the products will be shipped to the specified destination in compliance with the laws of such destination and the United States, and that there will be no re-export or diversion from such specified destination contrary to such laws. Any commodities, technology and software will be exported from the United States in accordance with the Export Administration Act regulations and other applicable regulations. Diversion contrary to United States law is prohibited. If requested by Engenuity Systems, Inc., the customer shall provide documentation satisfactory to Engenuity Systems, Inc. verifying delivery at the designated country. The customer further agrees to inform Engenuity Systems, Inc. at the time of order of any NAFTA or other special documentation, packaging or product marking or labeling, but Engenuity Systems, Inc. shall not be responsible for providing any such documentation, packaging, marking or labeling other than such documents as are necessary under United States export laws and regulations for export, unless Engenuity Systems, Inc. expressly agrees to do so.

**PERMITS, EXPORT, AND IMPORT LICENSES:**

The customer shall be responsible for obtaining any licenses or other official authorizations that may be required by the country of importation and/or under the Export Administration Act, Toxic Substances Control Act, or other applicable legislation or regulations; including, but not limited to, the Department of Defense or Department of State regulations.

**MATERIALS OF TRADE:**

The customer represents that if it is purchasing goods as its "materials of trade," as defined in the Hazardous Materials Regulations in Title 49 of the Code of U.S. Federal Regulations, the goods shall be used in direct support of its business, such business does not concern transportation, and such goods shall not be resold or transported in a vehicle other than the one owned by itself unless it has been properly packaged, documented and declared to the carrier.

**ADDRESS AND HOURS OF OPERATIONS:**

Engenuity Systems, Inc.  
2165 W. Pecos Rd., Suite 1  
Chandler, AZ 85224  
Phone: 480.782.5600 or 800.375.3363 for US Domestic customers  
Fax: 480.782.5601  
[www.engenuity.com](http://www.engenuity.com)  
Hours of Operation: 8:00am to 5:00pm (Arizona Time)  
Updated Jan. 2009