

## INGRAM MICRO SALES TERMS AND CONDITIONS [last updated October 25, 2017]

**Credit.** Unless otherwise agreed in writing and signed by an authorized representative of Ingram Micro Inc. or its applicable affiliate, these Sales Terms and Conditions ("**Sales Terms**"), as published on Ingram Micro's Web site located at [ca.ingrammicro.com](http://ca.ingrammicro.com) at the time of sale, govern all purchases of products and services ("**Products**") by the entity set forth in the applicable credit application in which these Sales Terms and Conditions are referenced ("**Buyer**") and Ingram Micro Inc., an Ontario corporation, or its appropriate Canadian affiliate(s) (individually and collectively, "**Ingram Micro**"). Ingram Micro will specify Buyer's payment terms, if any, when Buyer establishes its account. Buyer's credit line and payment terms are subject to change from time to time. Ingram Micro has the right to modify, increase, decrease or terminate Buyer's credit privileges and terms at any time without prior notice to Buyer. Buyer certifies that the information it furnishes to induce Ingram Micro to extend credit and sell Products to Buyer, including, without limitation, any financial statements, is true and correct and understands that Ingram Micro intends to rely upon such information as correct.

**Orders.** Additional terms and conditions may apply to the purchase of certain Products (e.g., cloud services, professional services, etc.). Buyer's orders are offers to purchase Products subject to these Sales Terms. All orders are subject to Ingram Micro's acceptance. Ingram Micro may decline or cancel any order for any reason at any time. Ingram Micro's acceptance of Buyer's order is limited to these Sales Terms without any modification, or exception. Additional terms and conditions on any Buyer document (e.g., order) will have no effect (i.e., will not change or add to these Sales Terms whether or not Ingram Micro specifically objects to those terms and conditions). Buyer, on behalf of itself and the customer for whom the Product is purchased, consents to the transfer of Buyer's and customer's email addresses, when such transfer is required to complete a transaction. Buyer will protect the confidentiality of its account number(s) and password(s) and not transfer them to any third party. Buyer may only place orders via any Ingram Micro-approved ordering method. Ingram Micro has no obligation to confirm the validity of any order placed or the authority of the person placing an order. Buyer is responsible for monitoring its orders on a daily basis and bears all risk of unauthorized purchases by third parties using Buyer's account number(s) or password(s). Buyer represents that all of Buyer's employees and agents placing orders on behalf of Buyer are duly authorized to commit Buyer. All accepted orders are binding. Buyer may not cancel or amend any accepted purchase order without Ingram Micro's written consent, except in the event of a material default by Ingram Micro with respect to such purchase order which has not been cured by Ingram Micro within a reasonable period of time (not less than ten (10) days) following receipt of written notice from Buyer of such default. Any cancellation by Buyer permitted hereunder shall be in writing and shall specify in reasonable detail the nature of the default. Orders for non-standard Products including Products configured to Buyer's specifications are non-cancelable and non-returnable. All orders under \$1,750.00 will be assessed a \$7.50 minimum order fee.

**Price.** Buyer shall purchase Products in accordance with prices, as determined by Ingram Micro that are prevailing at the time of shipment. Quoted prices are subject to change without notice and, unless specifically included in a quote or invoice, do not include any taxes, handling, shipping, transportation, duties or other charges or fees. Buyer is responsible for all applicable fees and all federal, state, provincial, municipal, and other government taxes on the sale and delivery of Products. Exemption certificates, valid in the place of delivery, must be presented to Ingram Micro prior to shipment if they are to be honored. Ingram Micro's acceptance of Buyer's order occurs at time of shipment, except for non-standard Products. Prices for backordered Products are not guaranteed.

**Payment.** Buyer agrees to pay all charges according to the payment terms established in each invoice for Products it acquires from Ingram Micro. Buyer waives any right it may have at law, in equity, under contract or otherwise to set-off or exercise any similar remedy against Ingram Micro in whole or in part, any sum that Ingram Micro or any of its affiliates may owe Buyer. Ingram Micro may apply payments to any of Buyer's accounts. In the event Buyer defaults on any payment to Ingram Micro, Ingram Micro may reschedule, suspend, or cancel any outstanding delivery or order and declare the entire outstanding balances under all invoices immediately due and payable. Buyer agrees to pay interest in the amount of 1.5% per month, or the highest rate permitted by law, whichever is less, on any payment past due, pursuant to the terms set forth on each invoice until collected. Buyer shall pay to Ingram Micro all costs and expenses, including, without limitation, reasonable attorney's fees and the fees of any collection agency and court costs, incurred by Ingram Micro in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions or provisions of these Sales Terms. Except as otherwise provided under applicable law, any credits provided by Ingram Micro will automatically expire if not used within 12 months.

**Transportation.** All deliveries of Products will be made EX WORKS (Incoterms 2010) Ingram Micro's designated location. Risk of loss or damage to Products shall pass upon Ingram Micro's surrender of the Products to the transportation provider. Buyer assigns all rights in the receivables resulting from Buyer's sales to its customers until Ingram Micro receives full payment of amounts owed to Ingram Micro. Transportation charges will be on a "prepay and add" basis, unless otherwise agreed in writing by an authorized signatory of Ingram Micro. Ingram Micro is not responsible for spotting, switching, demurrage or other transportation charges unless agreed in writing. Ingram Micro is not liable for any delays in delivery or for partial or early deliveries. Transportation charges will be in accordance with Ingram Micro's shipping policy at the time of shipment. If Buyer directs Ingram Micro to bill transportation to a third-party account number or to ship "freight collect", Buyer is responsible for all transportation and accessorial charges associated with the order, and is responsible for product loss and damage in transit claims with the transportation provider. Ingram Micro is not liable for any Buyer requirements not stated in these Sales Terms. Buyer or the consignee receiving delivery must accept deliveries and must inspect the Products and secure written acknowledgement from the transportation provider for any shortages, loss, damage or nonconformance. Buyer must notify Ingram Micro in writing within three (3) days of receipt of any delivery of any shortages, defects or non-conforming Products. In the event Buyer fails to notify Ingram Micro with such three (3) day period of any shortages, defects or non-conforming Products, the Products shall be deemed accepted.

**Returns.** Buyer may only return Products as permitted in these Sales Terms. Products otherwise shall be non-returnable and the prices shall be non-refundable. Buyer may only return erroneously shipped Products or Products that were damaged prior to shipment. Products damaged after shipment may not be returned. In order to be eligible to receive credit for returned Products, Buyer must adhere to Ingram Micro's then current returns processing guidelines. Buyer must obtain a valid return authorization number ("**RMA**") from Ingram Micro for all returns prior to returning any Product. Ingram Micro has no obligation to issue RMAs. Buyer is responsible for ensuring that the RMA is clearly visible on the address label of the Product packaging and for complying with all other Ingram Micro requirements provided to Buyer when the RMA is issued. Unless otherwise agreed in writing by Ingram Micro, all Product returns from Buyer are DDP (Incoterms 2010) Ingram Micro's designated facility, and title and risk of loss shall transfer to Ingram Micro upon receipt and acceptance of returned Products at Ingram Micro's facility. If Buyer desires to return any Products, Buyer must initiate a new order for the replacement Products. Ingram

Micro may refuse delivery of any package without a valid, clearly visible RMA. All Products erroneously shipped by Ingram Micro must be returned with the original packaging intact (including manufacturer's shrink wrap) and otherwise in unused, resalable condition. Credit, if any, will be provided for Product returned in accordance with Ingram Micro's return policies at the time the RMA was issued, provided Buyer is not in breach of any of these Sales Terms. If Buyer returns any Products without Ingram Micro's authorization or does not comply with Ingram Micro's return requirements, those Products may be subject to return to the shipping location and, if refused, Ingram Micro may consider the Products abandoned and dispose of them, without crediting Buyer's account. Ingram Micro reserves the right to charge a restocking fee for handling any Product that is erroneously returned. Ingram Micro's sole liability for any returned Products will be acceptance of their return and issuance of credits pursuant to Ingram Micro's then current returns processing guidelines.

Recycling Fees. Buyer shall bear all applicable recycling fees including all electronic waste recycling fees to be remitted by Ingram Micro under any provincial electronic waste recycling program. If Buyer desires to remit applicable electronic waste recycling fees directly to any provincial electronic waste recycling program on Ingram Micro's behalf, Buyer is responsible for providing Ingram Micro with confirmation of its registration status and, if applicable, entering into the online agreement with the provincial electronic waste recycling program and Ingram Micro prior to shipment.

Warranties / Indemnities. Buyer acknowledges that Ingram Micro is not the manufacturer of the Products. Product warranties, if any, are provided by the manufacturer or publisher ("**Vendor**") of the Products. INGRAM MICRO EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND COVENANTS, EITHER EXPRESS, IMPLIED, OR STATUTORY WITH RESPECT TO ANY PRODUCT, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. ALL INFORMATION IS PROVIDED TO BUYER "AS IS." To the extent authorized, Ingram Micro will pass through to Buyer any transferable Product warranties, indemnities, and remedies provided to Ingram Micro by the Vendor, if any, including any warranties and indemnities for intellectual property infringement. Buyer's, its affiliates', and their respective customers' sole and exclusive remedy relating to the Products shall be the remedy, if any, afforded by the applicable Vendor of such Products to such parties.

INGRAM MICRO IS NOT RESPONSIBLE FOR AND HAS NO DUTY TO DEFEND, INDEMNIFY, OR HOLD HARMLESS BUYER, ITS AFFILIATES, THEIR CUSTOMERS, OR ANY OTHER PARTY, FROM OR AGAINST ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION, INCLUDING ANY DAMAGES, COSTS OR EXPENSES INCURRED BY SUCH PARTIES, ARISING FROM OR RELATING TO THE ACTUAL OR ALLEGED PRODUCT LIABILITY, BREACH OF SECURITY, LOSS OF DATA, OR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS RELATED (DIRECTLY OR INDIRECTLY) TO THE MANUFACTURE, SALE, OR USE OF THE PRODUCTS. Buyer warrants that it has all necessary legal rights to all intellectual property it provides to Ingram Micro. BUYER WILL INDEMNIFY, DEFEND AND HOLD HARMLESS INGRAM MICRO, ITS AFFILIATES, AND ITS VENDORS, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS FROM AND AGAINST ANY LIABILITIES, LOSSES, DAMAGES, COSTS OR EXPENSES OF ANY KIND (INCLUDING REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS) ARISING OR RESULTING FROM CLAIMS, DEMANDS, ACTIONS OR PROCEEDINGS OF ANY KIND ARISING FROM OR RELATING TO: (i) BUYER'S USE, MARKETING, DISTRIBUTION OR SALE OF PRODUCTS IN A MANNER OTHER THAN AS SPECIFIED IN PRODUCT/SERVICE DESCRIPTIONS OR SPECIFICATIONS; (ii) INGRAM MICRO'S OR ITS VENDOR'S COMPLIANCE WITH DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS PROVIDED BY BUYER; (iii) BUYER'S BREACH OF THESE SALES TERMS OR ACTS OR OMISSIONS OF BUYER, ITS AFFILIATES, ITS AGENTS, OR THEIR RESPECTIVE EMPLOYEES, OFFICERS OR DIRECTORS; OR (iv) VIOLATION OR ALLEGED VIOLATION OF ANY APPLICABLE LAWS OR REGULATIONS BY BUYER OR ITS AFFILIATES.

Limitation of Liability. Ingram Micro will have no liability for: (i) failure to allocate or reserve any Product for Buyer; (ii) failure to deliver Products within a specified time period; (iii) availability and/or delays in delivery of Products, (iv) discontinuation of Products, product lines, or any part thereof; or (v) cancellation of any orders. THE ONLY LIABILITY INGRAM MICRO WILL HAVE WITH RESPECT TO ANY DAMAGED, DEFECTIVE, AND/OR ERRONEOUSLY SHIPPED PRODUCTS WILL BE THE RETURN RIGHTS DESCRIBED HEREIN. BUYER AGREES THAT INGRAM MICRO'S LIABILITY FOR DAMAGES ARISING UNDER THESE SALES TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL BE LIMITED TO ACTUAL, PROVEN, DIRECT DAMAGES AND WILL NOT EXCEED THE NET AMOUNT PAID TO INGRAM MICRO BY BUYER FOR THAT PRODUCT OR SERVICE WHICH IS THE SUBJECT OF THE CLAIM. TO THE FULLEST EXTENT PERMITTED BY LAW, BUYER WAIVES ANY CLAIMS, DEMANDS, CAUSES OF ACTION, OR RECOVERIES FOR INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING UNDER THIS AGREEMENT OR OTHERWISE WITH RESPECT TO THE SALE OF THE PRODUCTS OR SERVICES, FAILURE TO PERFORM IN ACCORDANCE WITH THE SALES TERMS, OR ANY PRODUCTS OR INFORMATION, INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INJURY TO PERSONS OR PROPERTY, BUSINESS INTERRUPTION OR DAMAGE TO BUSINESS REPUTATION OR LOSS OF GOODWILL, LOSS OF DATA, OR SECURITY BREACH, REGARDLESS OF THE THEORY UPON WHICH ANY CLAIM MAY BE BASED, AND EVEN IF INGRAM MICRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING ANY TORT OR STATUTORY CAUSES OF ACTION. BUYER EXPRESSLY WAIVES ALL CLAIMS FOR THOSE DAMAGES. THIS PROVISION SHALL SURVIVE ANY TERMINATION OF THESE SALES TERMS. THE OBLIGATIONS OF INGRAM MICRO INC. AND ANY AFFILIATE THEREOF, IF ANY, HEREUNDER ARE THE SEVERAL OBLIGATIONS OF EACH SUCH ENTITY, AND NOTHING HEREIN SHALL BE DEEMED TO CREATE ANY JOINT AND SEVERAL LIABILITY BETWEEN OR AMONG INGRAM MICRO AND/OR ANY OF ITS AFFILIATES.

Force Majeure. Ingram Micro shall not be responsible for delays in deliveries or failure to perform due to events of force majeure, including, but not limited to, fire, flood, tornado, earthquake, war, riot, insurrection, strike, lockout, slowdown, epidemic, quarantine restriction, delay in transportation, labor shortage or strikes, materials or manufacturing facility shortage, accidents, boycott, embargo or any act or regulation of government or governmental authority and other contingencies beyond Ingram Micro's control resulting in impossibility or delay of performance of Ingram Micro.

Compliance. Buyer agrees to abide by all laws and regulations applicable to its performance of its obligations under these Sales Terms. Neither party has made, and will not make, any direct or indirect payment, offer to pay, or authorization to pay, any money, gift, promise to give, or authorization of the giving, of anything of value to any government official, or the immediate family of any such official, for the purpose of influencing an act or decision of the government or such individual in order to assist, directly or indirectly, Buyer or Ingram Micro in obtaining or retaining business, or securing an improper advantage. If Buyer delivers the Products to its customer who may use the Products

outside Canada, Buyer will advise its customer that the Products are controlled for export pursuant to applicable export control laws and that the Products may require authorization prior to export from Canada or re-export.

Restrictions. Buyer agrees to at all times adhere to Ingram Micro's and any applicable Vendor's current Product Restrictions and Obligations Policy. Buyer may not alter or modify the Products in any way or combine the Products with any other product or material not authorized by Ingram Micro and the applicable Vendor. Products may have additional restrictions on their distribution or use. Buyer is solely responsible for ensuring its adherence to any and all such restrictions.

Relationship. Buyer and Ingram Micro are independent contractors. Nothing stated in these Sales Terms will be construed as creating the relationship of employer/employee, franchisor/franchisee, partners or principal/agent between the parties. Neither party will make any warranty, guarantee or representation, whether written or oral, on the other party's behalf.

Governing Law. These Sales Terms (and any agreement into which they are incorporated) shall be construed, interpreted and enforced under and in accordance with the laws of the Province of Ontario, excluding its conflicts or choice of law rule or principles which might refer to the law of another jurisdiction. Purchaser agrees to exercise any right or remedy in connection with these Sales Terms exclusively in, and hereby submits to the jurisdiction of the courts located in the City of Toronto, Province of Ontario, Canada. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Sales Terms.

Notices. All notices, requests, demands, and other communications must be in writing and may be given by: (i) personal delivery; (ii) registered or certified mail, return receipt requested; or (iii) nationally recognized courier services to the party at its official corporate address. Notices to Ingram Micro must be sent to: Ingram Micro Inc., 55 Standish Court, Mississauga, Ontario L5R 4A1, Attention: Legal Department.

Publicity. Except for any announcement intended solely for internal distribution by either party or any disclosure required by legal, accounting, or regulatory requirements, all media releases, public announcements, or public disclosures by either party or its employees or agents relating to these Sales Terms, the relationship between Ingram Micro and Buyer, or including the marks of the other party or any affiliate of that party, must be approved in writing by the other party prior to release.

Assignment. Buyer may not assign or delegate its rights or duties under these Sales Terms, by operation of law or otherwise, in whole or in part, without the prior written consent of Ingram Micro. Any direct or indirect change of control of Buyer will be deemed an assignment. Any attempted assignment by Buyer without that consent will be null and void without any force or effect. Ingram Micro's affiliates may perform its obligations arising under these Sales Terms. These Sales Terms shall be binding upon and, except as otherwise provided herein, shall inure to the benefit of the parties hereto and their respective successors and assigns.

Validity. If any provision of these Sales Terms is held to be unenforceable, the enforceability of the remaining provisions will not in any way be affected. Failure or delay of either party to exercise a right under these Sales Terms will not operate as a waiver, nor will any single or partial exercise of a right preclude any other future exercise of that right. The parties agree to use electronic signatures and that their respective electronic signatures will be legally enforceable.

No Waiver. Failure or delay of Ingram Micro to exercise a right or power under these Sales Terms will not operate as a waiver thereof, nor will any single or partial exercise of a right or power preclude any other future exercise of that right or power.

Survival. No termination of these Sales Terms will affect any rights or obligations of either party which: (i) are vested pursuant to these Sales Terms as of the effective date of such termination; or (ii) by their sense and context are intended to survive completion of performance or termination of these Sales Terms, including, without limitation, Confidentiality, Warranties / Indemnities, and Limitation of Liability, all of which will survive.

Entire Agreement / Confidentiality / Amendment. These Sales Terms are intended to be the sole and complete statement of the obligations and rights of the parties as to all matters covered hereunder, and supersede all previous understandings, agreements, negotiations and proposals relating thereto. In furtherance of the business relationship between Ingram Micro and Buyer, it may be necessary or desirable for either party to disclose to the other certain non-public business and/or technical information that is either marked "Confidential" or by its nature should reasonably be considered confidential (the "**Confidential Information**"). Each party will protect Confidential Information from unauthorized disclosure or access by using the same degree of care it takes to protect its own confidential information which in no event shall be less than reasonable care. Each party's Confidential Information may be disclosed by the other party to those employees, affiliates or agents of such other party who have a need to know and an obligation to comply with the confidentiality terms herein. The confidentiality obligations herein will not apply to information which is or becomes publicly available, is already in the other party's possession prior to the time a party gains access, is independently developed by a party or is rightfully obtained from third parties, or as may be required to be disclosed by law or in connection with dispute resolution. Notwithstanding anything herein, Ingram Micro may, from time to time and in its sole discretion, disclose credit information relative to Buyer to third parties for informational purposes only. These Sales Terms may be modified by Ingram Micro from time to time in its sole and absolute discretion. No modification of these Sales Terms in effect at the time Buyer places its order shall be binding unless the modification is in writing and signed by an authorized representative of Ingram Micro.