



Terms and Conditions of Sale

1. **Controlling Provisions.** These terms and conditions of sale (these "Terms"), together with the sales quotation, sales proposal or similar document (each a "Sales Document") making reference to these Terms (collectively, this "Contract") constitutes an offer by the entity identified in the Sales Document as "Seller" (referred to herein as "Company") to provide the goods and/or services described in such Sales Document to the party to whom the Sales Document is addressed ("Buyer"). Any goods referenced in the Sales Document are referred to herein as "Products", and any services referenced in the Sales Document are referred to herein as "Services". If this Contract is deemed an acceptance of a prior offer by Buyer, such acceptance is limited to the express terms contained herein. Buyer's acceptance of this Contract is limited to the terms, covenants and conditions contained in this Contract, and Company hereby objects to and rejects any additional, different or varying terms proposed by Buyer, unless Company expressly agrees to such terms in writing. Such proposal of additional, different or varying terms by Buyer will not operate as a rejection of Company's offer, and Company's offer will be deemed accepted without such additional, different or varying terms. This Contract constitutes the final expression of the terms between Company and Buyer regarding the Products and/or Services (as applicable) and is the complete statement of those terms. Any terms, conditions, negotiations or understandings not contained in this Contract will have no force or effect unless made in writing and signed by Company and Buyer.

2. **Acceptance.** Buyer will be deemed to have accepted this Contract upon the earliest of the following to occur: (a) Company's receipt of a copy of this Contract signed by Buyer or any other written acceptance of this Contract by Buyer; (b) Buyer's payment of any amounts due under this Contract; (c) Company's delivery of the Products and/or Services (as applicable); or (d) any other event constituting acceptance under applicable law.

3. **Orders.** Buyer's order of Products and/or Services from Company shall be subject to the provisions of this Contract. Buyer's order must be made in a form acceptable to Company. Company reserves the right to reject any orders for any reason in its sole discretion. Company reserves the right to correct clerical or similar errors relating to price or any other term shown on any invoice.

4. **Changes, Cancellations and Returns.** Buyer may not change or cancel an order that has been accepted by Company, unless Company agrees in writing. Company reserves the right to change the price, terms of payment and shipment dates for any Products and/or Services affected by any changes to any order

which are requested by Buyer and approved by Company in writing. When Company consents to the cancellation of any order, Buyer shall be responsible for all expenses incurred by Company related to such cancelled order. Buyer may not return any Products to Company unless Company agrees in writing.

5. Delivery of Products.

(a) If the Sales Document provides for the delivery of Products, then the provisions of this Section 5 shall apply.

(b) Unless otherwise stated in this Contract, Company shall deliver the Products in accordance with the following delivery terms: (i) if Buyer is located within the United States, F.O.B. Company's designated facility; and (ii) if Buyer is located outside the United States, FCA (Incoterms 2020) Company's designated facility. The place of delivery pursuant to the preceding sentence is, in each case, referred to herein as the "Delivery Point". All risk of loss, damage or delay, and title to the Products shall pass from Company to Buyer upon delivery to Buyer or its designated carrier at the Delivery Point. All quoted shipment and/or delivery dates and/or periods are approximate. Time for delivery shall not be of the essence. Delivery dates given by Company are based on prompt receipt of all necessary information regarding the order. Company's failure to meet any shipment or delivery date does not constitute a cause for cancellation and/or for damages of any kind. Unless otherwise stated in this Contract, Buyer shall be responsible for picking up the Products at the Delivery Point and for transporting such Products to Buyer's intended destination. Claims for shortages or other errors must be made in writing to Company within thirty (30) days after receipt of the shipment by Buyer or its carrier, and failure to give such notice will constitute unqualified acceptance of such shipment and a waiver of all such claims by Buyer.

(c) Any delay in delivery due to causes beyond Company's reasonable control including those events listed in Section 14 below, due to any priorities or allocations necessitated by governmental orders or regulations, or due to any causes specified in the following sentence, shall extend the term of delivery by a period equal to the length of such delay. In the event of delay in delivery requested by Buyer or caused by Buyer's (i) failure to supply adequate instructions, (ii) failure to arrange for pickup, (iii) failure to supply or approve necessary data in a timely manner, (iv) requested and approved changes, or (v) failure to provide documents required for Company to effect delivery, Company will store all Products at Buyer's risk and expense. Buyer shall pay all storage costs and expenses upon Company's demand.

6. Delivery of Services.

(a) If the Sales Document provides for the delivery of Services, then the provisions of this Section 6 shall apply.

(b) Company shall provide to Customer the Services described in the Sales Document. Company shall use reasonable efforts to



meet any performance dates specified in the Sales Document, but such dates shall be estimates only.

(c) Buyer shall: (i) cooperate with Company in all matters relating to the Services and provide such access to Buyer's premises, and such office accommodation and other facilities as may reasonably be requested by Company, for the purposes of performing the Services; (ii) respond promptly to any Company request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Company to perform the Services; and (iii) provide such Buyer materials and information as Company may request to carry out the Services and ensure that such Buyer materials and information is complete and accurate in all respects.

(d) If Company's performance of Services is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees, Company shall not be deemed in breach of its obligations under this Contract or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

7. Prices; Taxes; Permits. Prices for the Products and/or Services, as applicable, shall be as stated in the Sales Document. Company reserves the right to adjust Product prices, in each upon thirty (30) days' advance notice to Buyer, to account for increases in raw materials costs incurred by Company prior to delivery. All prices are stated, and shall be payable, in U.S. Dollars. All quotations from Company for the Products and/or Services will automatically expire thirty (30) days from the date of the quotation unless the quotation states otherwise or is withdrawn by Company. Buyer shall pay or reimburse Company, on demand, for all taxes, fees and costs including any manufacturer's tax, retailer's occupation tax, use tax, sales tax, excise tax, value added tax, duty, broker fees, inspection or testing fee, freight costs, insurance, consular fees or any other tax, fee or charge of any nature whatsoever, including interest, imposed on, in connection with or measured by any transaction between Company and Buyer, in addition to the prices quoted or invoiced.

8. Terms of Payment. Unless otherwise agreed in writing by the parties, terms of payment are as follows: net thirty (30) days from the invoice date. Notwithstanding the foregoing, terms of payment on all orders are subject to the prior written approval of Company's credit department. If Buyer does not pay Company any amount due under this Contract or any other agreement when such amount is due or if Buyer defaults in the performance of this Contract, Company may, without liability to Buyer and without prejudice to Company's other lawful remedies (a) terminate Company's obligations under this Contract; (b) declare immediately due and payable all of Buyer's obligations to Company; (c) change credit terms with respect to any other orders of Products; and/or (d) suspend or discontinue any further orders. Buyer agrees to reimburse Company for all costs and fees, including, without limitation, reasonable

attorneys' fees, incurred by Company in collecting any sums owed by Buyer to Company. Buyer agrees to pay a late payment charge equal to the lesser of 1.5% per month, or the maximum amount allowable by law, on all amounts not paid in full when due, payable on Company's demand. Buyer shall not set off amounts due to Company against Buyer's claims against Company.

9. Warranty Terms for Products; Limitations.

(a) Third Party Products - BUYER ACKNOWLEDGES THAT CERTAIN PRODUCTS SOLD HEREUNDER MAY BE MANUFACTURED BY THIRD PARTIES AND THAT SUCH PRODUCTS ARE BEING RESOLD BY COMPANY AS A DISTRIBUTOR. COMPANY MAKES NO WARRANTIES ON PRODUCTS AND/OR PARTS THEREOF SOLD HEREUNDER THAT ARE NOT MANUFACTURED BY COMPANY. To the extent permissible, Company will assign to Buyer any warranty that the manufacturer may offer for such third-party Products or parts, but Company does not guarantee that the manufacturer will comply with any of the terms of its warranty.

(b) Company Manufactured Products - For any Products supplied hereunder which are manufactured by Company (as confirmed by Company), Company warrants to Buyer that such Products ("Company Products") will be manufactured in accordance with, and will conform to, Company's written specifications for such Company Products, as in effect at the time of delivery to the Delivery Point. The warranty period for this limited warranty shall be six (6) months from the date such Company Products are delivered to the Delivery Point. This LIMITED WARRANTY SHALL NOT EXTEND to (i) defects caused by any specifications or designs supplied by Buyer; or (ii) parts or other materials provided by Buyer. There is NO WARRANTY in cases of repairs or alterations of Company Products not authorized by Company in writing, damage in transit, negligence, abuse, abnormal usage, misuse, accidents, normal wear and tear, damage due to environmental and natural elements, failure to follow Company's instructions or improper installation, storage or maintenance. Company's SOLE AND EXCLUSIVE obligation under this limited warranty (and Buyer's sole and exclusive remedy) will be, upon prompt written notice by Buyer during the Warranty Period of any breach, to either, at Company's option: (i) repair or replace without charge any defective Company Product; or (ii) credit to Buyer or refund the purchase price for such defective Company Product paid by Buyer. This limited warranty covers only the replacement or repair of defective Company Products at Company's facility and does not include the cost of transportation of the Company Products to Company's facility.

(c) Buyer through its own analysis and testing, is solely responsible for making the final selection of the system and components and assuring that all performance, endurance, maintenance, safety, and warning requirements of the application are met. Buyer must analyze all aspects of the application, follow applicable industry standards, and follow the information provided in product bulletins, drawings or other materials provided by Company. It remains the responsibility of



Buyer or the third-party machine manufacturer (if applicable) to ensure overall system or machine functionality and safety. In addition, and without limiting the foregoing, Buyer shall be solely responsible for determining the suitability of the Products for the intended use and cause the Products to be installed correctly, if not installed by Company. Buyer assumes all risk and liability whatsoever in connection therewith.

(d) THE EXPRESS WARRANTIES IN SECTION 9(B) ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ALL OTHER EXPRESS AND IMPLIED WARRANTIES ARE HEREBY DISCLAIMED. Any oral or written description of the Products is for the sole purpose of identifying the Products and will not be construed as an express warranty. Any assistance Company provides to or procures for Buyer outside the limitations of this Section will not constitute a waiver of the limitations of this Section.

(e) Unless specifically agreed to in writing by an authorized representative of Company, Products sold hereunder are not intended for use in connection with any nuclear facility or any other hazardous activity such as military or commercial aircraft, space exploration, missile installations or other critical applications where failure of a single component could cause substantial harm to persons or property. Buyer agrees to indemnify and hold Company harmless from any such liability whether as a result of breach of contract; warranty, tort (including negligence) or other grounds. Company and its suppliers shall not be liable to Buyer or its insurers based on contract, warranty, tort (including negligence) or other grounds for onsite damage to any property located at a nuclear facility or for any use by Buyer that is inconsistent with this Section.

10. **Warranty Terms for Services; Limitations.**

(a) Company warrants to Customer that it will perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its Service-related obligations under this Agreement.

(b) Company shall not be liable for a breach of the warranty set forth in Section 10(a) above unless Customer gives written notice of the defective Services, reasonably described, to Company within ten (10) days after Company's performance of the Services. Subject to the preceding sentence, Company shall, in its sole discretion, either: (i) repair or re-perform such Services (or the defective part); or (ii) credit or refund the price paid for such defective Services.

(c) THE REMEDIES SET FORTH IN SECTION 10(B) ABOVE SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND COMPANY'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 10(A) ABOVE.

(d) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 10(A) ABOVE, COMPANY MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING ANY: (I)

WARRANTY OF MERCHANTABILITY; (II) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (III) WARRANTY OF TITLE; OR (IV) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

11. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, WHETHER FOR BREACH OF WARRANTY, FOR BREACH OR REPUDIATION OF ANY OTHER TERM OF THIS CONTRACT, OR FOR LIABILITY BASED ON NEGLIGENCE OR ANY OTHER THEORY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY'S AGGREGATE LIABILITY WITH RESPECT TO THIS CONTRACT SHALL BE LIMITED TO THE AMOUNT OF MONEY PAID TO COMPANY BY BUYER FOR THE PRODUCTS AND/OR SERVICES FURNISHED HEREUNDER. The foregoing limitations do not apply to liability arising out of the recklessness or willful misconduct of Company.

12. **Indemnification.** Buyer shall indemnify, defend and hold Company harmless from and against any and all liabilities, losses, fines, penalties, damages and expenses, including, without limitation, attorneys' fees ("**Damages**") incurred by or against Company which arise out of or result from any of the following: (a) any claim that any specifications furnished by Buyer infringe or constitute a misappropriation of any third party intellectual property rights; and/or (b) any claim for bodily injury, including death or disease, or for loss of damage to property which results from or is caused by the use of any device or other good which is manufactured or sold by Buyer and which incorporates or otherwise utilizes any Product sold hereunder.

13. **Intellectual Property.** Nothing in this Contract will be construed to give Buyer any rights in any trademarks or other intellectual property of Company, including, without limitation, intellectual property rights in the Products themselves.

14. **Force Majeure.** Except with respect to payment obligations under this Contract, neither party will be responsible for any nonperformance of this Contract or delay in the performance of this Contract where such nonperformance or delay has been caused by an act of God, war, major disaster, terrorism, thirdparty criminal acts, insurrection, riot, flood, earthquake, fire, strike, lockout or other labor disturbance, delay by carriers, shortage of fuel, power, materials or supplies, operation of statutes, laws, rules or rulings of any court or government, demand for goods exceeding available supply or any other cause beyond the party's control. In the event of any delay in delivery, failure to fill orders or other default or damage caused by any of the foregoing, Company may, at its option and without liability, prorate its deliveries, cancel all or any portion of this Contract to



the extent affected by the event of force majeure and/or extend any date upon which performance is due hereunder.

15. **Governing Law.** This Contract will be governed by and construed according to the laws of Delaware. Neither this Contract nor sales hereunder will be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods.

16. **Miscellaneous.** This Contract constitutes the entire agreement between the parties with respect to Buyer's purchase of the Products and/or Services and supersedes all other agreements or communications, written or oral, which may be deemed to be inconsistent with it. This Contract may not be amended or altered except by a writing signed by Company. If any provision of this Contract is held to be invalid or unenforceable for any reason, the parties acknowledge and agree that such invalidity or unenforceability (a) will not affect any other provision of this Contract, (b) the remaining terms, covenants and conditions hereof will remain in full force and effect, and (c) any court of competent jurisdiction may so modify the objectionable provision as to make it valid and enforceable. The failure of either party to insist, in any one or more instances, upon performance of any term, covenant or condition of this Contract will not be construed as a waiver or relinquishment of any right granted hereunder or the future performance of such term, covenant or condition. All of Company's remedies herein are cumulative and not exclusive of any other remedies available to Company at law, by contract or in equity.

[End]