

**1. APPLICABILITY.** The sale of any and all Seller goods shall be conditioned upon, and subject to the following terms and conditions ("Terms and Conditions") which shall form an integral part of any agreement between Buyer and Seller. Buyer's acceptance of any quotation, proposal or offer made by Seller for the sale of its goods (collectively, "Quotation") is expressly made subject to these Terms and Conditions and none of the Terms and Conditions may be added to, modified, superseded or otherwise altered except as revised in writing by Seller. All orders for goods received by Seller shall be governed only by these Terms and Conditions, notwithstanding any terms and conditions in any purchase order, release order, or any other form issued by Buyer. Seller hereby objects to any terms and conditions which may be found in any purchase order, release order, or any other form issued by Buyer and hereby notifies Buyer that they are rejected. Any services of Seller that are included in and/or provided in connection with the sale of any goods ("Services") are conditioned upon and subject to Seller's Standard Terms and Conditions of Sale (Service) that are in effect from time to time and are incorporated by reference as if fully rewritten in these Terms and Conditions and are attached to these Terms and Conditions or are available at Seller's website or upon request of Buyer.

**2. PRICE.** Prices quoted by Seller shall remain firm for a period of thirty (30) days from the date of a Quotation; provided, however, Seller reserves the right, at any time prior to the acceptance of a Quotation by Buyer to adjust said prices by providing written notice to Buyer regarding any such adjustment. Quotations provided are priced based on Buyer's purchase of the entire scope of goods identified in a Quotation. If less than the entire scope of goods identified in a Quotation is ordered by Buyer, prices may vary. Unless otherwise stated in a Quotation, installation, commissioning, supervision and/or start-up services are not included in the price of goods to be provided by Seller. Buyer shall pay Seller to the extent of Services provided, or for the quantity of goods shipped should Seller be unable for any reason to provide and/or ship the entire scope of goods identified in a Quotation. Prices quoted by Seller are exclusive of all taxes (except taxes levied on Seller's income) including federal, state, provincial and local use, sales, property or similar taxes, and Buyer shall pay all such taxes in full or shall reimburse Seller for any such taxes paid by Seller.

**3. SCOPE OF GOODS AND SERVICES.** The goods and Services provided by Seller pursuant to a Quotation are limited exclusively, at the express request of Buyer, to the goods expressly identified in such Quotation. As a result, Seller does not assume responsibility and/or liability for the failure to provide any other goods or Services. Modifications, additions or deletions to or from the scope referenced in a Quotation shall only be effective if evidenced in writing signed by Seller and the sale of any and all goods affected by such modification, addition or deletion shall be subject to these Terms and Conditions whether or not referenced therein. All sales of goods and Services are final.

**4. PAYMENT TERMS.** Unless otherwise provided in the Quotation, all Seller invoices shall be paid by Buyer within thirty (30) days of the date of invoice. If Buyer fails to timely pay invoices, Seller shall be entitled to suspend all work and deliveries and issue a late charge equivalent to the lesser of one and one half percent (1 1/2%) per month (eighteen percent (18%) per annum) or the maximum rate allowed by law on all unpaid invoices or invoices not paid in accordance with these Terms and Conditions. Buyer shall reimburse Seller for all expenses, regardless of their nature or type (including attorney's fees), related in any way to Seller's collection of invoices not paid in accordance with these Terms and Conditions or otherwise incurred by Seller in the enforcement of these Terms and Conditions. Unless otherwise provided in a Quotation, for all goods and Services with a Quotation or purchase order price in excess of fifty thousand dollars (USD \$50,000.00) (or the local currency equivalent), Buyer shall pay a deposit in the amount of forty percent (40%) of the price (due upon Seller's receipt of Buyer's purchase order). Buyer shall make progress payments as stated in the applicable Quotation or otherwise agreed to in a writing signed by Buyer and Seller. Buyer shall have no right to offset any amounts due Seller by any payment or other obligation which Seller or any of its affiliates may owe to Buyer.

**5. CANCELLATION.** A purchase order may be cancelled by Seller (in whole or in part) at any time if (a) Buyer fails to strictly comply with the terms governing the order, (b) Buyer becomes insolvent, appoints or has appointed a receiver, or makes an assignment for the benefit of creditors, (c) a petition in bankruptcy or insolvency is filed by or against Buyer, (d) Seller requests and is unable to secure acceptable payment assurances from Buyer for the Services and/or goods identified in a Quotation or purchase order, or (e) amounts due Seller by Buyer are unpaid. Upon cancellation of a purchase order, Buyer shall be obligated to pay to Seller the price for all goods that can be completed and shipped within thirty (30) days of the date of cancellation, all Services performed to date, all special tooling for which commitments have been made by Seller, and all of Seller's costs, expenses and reasonable profit for work in process as of the date of cancellation.

**6. CREDIT APPROVAL.** All orders are subject to Buyer credit approval by Seller. Seller reserves the right to refuse shipment of any and all goods or provision of any and all Services identified in any Quotation or purchase order and/or modify the payment terms identified therein or in Section 4 hereof.

**7. DELIVERY TERMS AND DELAYS.** Unless otherwise identified in a Quotation, all shipments of goods are F.C.A. Seller's plant, warehouse or dock, as defined by Incoterms® 2010, and all risk of loss with respect to any goods shipped shall pass to Buyer when such goods are delivered to the carrier at such plant, warehouse or dock. Title to goods shall transfer to Buyer upon Seller's receipt of payment in full for all goods and Services provided pursuant to a Quotation and/or purchase order.

**a. Delivery.** All dates for the shipment and/or delivery of goods and/or for the provision of Services are approximate. Seller shall not be liable for delay in or failure to make shipment and/or delivery of goods or commencement, performance or completion of Services by any identified date for any reason whatsoever. In the event of any delay, regardless of the cause, the parties shall agree upon a new date for the shipment and/or delivery of goods and/or commencement, performance or completion of Services. In the event of any delay caused by Buyer, Buyer shall pay Seller for all costs and expenses incurred by Seller related to such delay.

**b. Freight Charges.** Any reference to freight charges contained in a Quotation is an estimate. Seller is not responsible for any differences that may occur between freight estimates contained in a Quotation and actual freight charges applicable at the time of shipment, and Buyer shall incur and be responsible for all costs associated therewith.

**c. Packaging.** Unless otherwise identified in a Quotation, quoted prices do not include the cost for export or special packaging of goods and Buyer shall assume and be responsible for those extra costs associated with such export and packaging.

**d. Cost of Goods.** Unless otherwise stated in a Quotation, Buyer shall pay all cost increases Seller is assessed for materials incorporated into goods and/or Services, including but not limited to steel, copper, and fuel surcharges, to the extent such increases exceed any estimated costs used by Seller to develop a Quotation by ten percent (10%) and which occurs after the issuance of a Quotation, but prior to the delivery of the goods and/or provision of the Services.

**e. Site Condition.** Buyer warrants that the site where goods are to be delivered and/or installed and/or where Services are to be performed shall be ready and adequate for Seller's delivery and/or installation of the goods and/or performance of Services. Buyer's obligations in this regard include but are not limited to the removal of all obstructions and institution of adequate safety measures to protect Seller's property, employees, agents and contractors. Buyer shall be responsible for all costs and expenses associated with Seller's delay and/or inability to deliver and/or install any goods and/or perform any Services related to Buyer's failure to comply with this provision. Seller in no way warrants the sufficiency of the site for where the goods are to be delivered, installed and/or used.

**8. SECURITY INTEREST.** Buyer hereby grants Seller a security interest in the goods to secure the unpaid balance of the price and all other obligations of Buyer to Seller however arising. Buyer authorizes Seller to file all necessary financing statements and other similar documents required to perfect the security interest granted herein and irrevocably grants Seller a power of attorney to execute any documents on behalf of Buyer relating thereto.

**9. WARRANTIES.** The sale of any and all goods manufactured by Seller ("Seller Products") are conditioned upon, and subject to Seller's Standard Warranty for such Seller Product in effect on the date of sale (incorporated by reference as if fully rewritten herein and a copy of which is attached to the Quotation or is available at Seller's website or upon request of Buyer). Notwithstanding anything to the contrary in any verbal and/or written purchase order, release order or other form issued by Buyer, any verbal and/or written purchase order, release order or other form issued by Buyer to confirm any order issued pursuant to a Quotation or receipt of any of the goods identified in a Quotation shall serve as conclusive proof that Buyer has reviewed and agrees to be bound by the terms of Seller's Standard Warranty. Any warranty of Seller is limited to and only for the benefit of Buyer and is not transferable or assignable by Buyer without the prior written consent of Seller. Repairs and replacements shall not extend the original warranty provided with the goods at the time of sale as stated in Seller's Standard Warranty.

SELLER'S STANDARD WARRANTY REPRESENTS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY SELLER TO BUYER WITH RESPECT TO THE GOODS PROVIDED UNDER A QUOTATION AND IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BUYER HEREBY WAIVES ANY CLAIM THAT ANY EXCLUSIONS OR LIMITATIONS OF ANY WARRANTY PROVIDED BY SELLER DEPRIVE IT OF AN ADEQUATE REMEDY OR CAUSE ITS AGREEMENT WITH SELLER TO FAIL OF ITS ESSENTIAL PURPOSE. BUYER SHALL BE ENTITLED TO NO OTHER REMEDY REGARDLESS OF THE FORM OF CLAIM OR CAUSE OF ACTION, WHETHER BASED IN AGREEMENT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

**10. LIMITATION OF DAMAGES.** SELLER SHALL HAVE NO LIABILITY TO BUYER OR ANY END USER OF GOODS OR SERVICES WITH RESPECT TO THE SALE OF GOODS OR PROVISION OF SERVICES UNDER A QUOTATION FOR LOST PROFITS OR FOR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND WHETHER ARISING IN CONTRACT, TORT, PRODUCT LIABILITY OR OTHERWISE, EVEN IF SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH LOST PROFITS OR DAMAGES. SELLER'S LIABILITY IS LIMITED TO THE AMOUNT OF BUYER'S DIRECT DAMAGES UP TO THE AMOUNT OF THE CONTRACT PRICE AND IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY DAMAGES WHATSOEVER IN EXCESS OF THE TOTAL PRICE PAID BY BUYER FOR GOODS AND/OR SERVICES REFERENCED IN A QUOTATION.

**11. CONFIDENTIALITY; LICENSE.** Without limitation, Buyer shall not, at any time disclose to any other person or entity any information provided to Buyer by, and relating to the business of Seller including without limitation, plans and specifications and any other inventions, devices, formulas, processes, programs, software, listings, print-outs, documentation, notes, charts, manuals, programming aids, source codes, object codes, compilations, technology,



know-how, price lists, costs, policies, techniques, trade practices, accounting methods, methods of operation or other data that Seller considers confidential, and trade secrets of every kind relating to Seller's business, whether or not patentable or copyrightable. Such information shall remain the exclusive property of Seller and shall be returned to Seller upon request at any time. Further, these Terms and Conditions do not constitute a license or authorization of any kind for Buyer to use any of the trademarks or trade names owned or licensed by Seller.

**12. INDEMNIFICATION; WAIVER OF IMMUNITY.** SELLER SHALL NOT BE LIABLE FOR AND BUYER SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER AND ANY ENTITY AFFILIATED IN ANY WAY THEREWITH, FROM ANY CLAIMS, DEMANDS, DAMAGES (REGARDLESS OF THEIR TYPE, INCLUDING, BUT NOT LIMITED TO DIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL), LIABILITIES, LOSSES AND EXPENSES (WHETHER KNOWN OR UNKNOWN, PRESENT OR FUTURE), ANY AND ALL LIABILITY, OF AND FROM ANY AND ALL MANNER OF SUITS, ACTIONS OR CAUSE(S) OF ACTION (INCLUDING BUT NOT LIMITED TO SUITS FOR CONTRIBUTION AND/OR INDEMNITY AND ALL SUITS IN LAW, IN EQUITY, OR UNDER STATUTE, OF WHATEVER KIND OR NATURE) ON ACCOUNT OF OR IN ANY WAY ARISING OUT OF ACTS OR OMISSIONS OF BUYER, ITS AGENTS, CONTRACTORS, EMPLOYEES OR ANY PERSON UNDER THEIR CONTROL AND RELATING IN ANY WAY TO THE GOODS AND/OR SERVICES PROVIDED UNDER A QUOTATION OR THE EQUIPMENT RELATED THERETO, INCLUDING, BUT NOT LIMITED TO BUYER'S USE, INSTALLATION, INCORPORATION OR SELECTION THEREOF. BUYER HEREBY WAIVES ANY IMMUNITY OR DEFENSE UNDER APPLICABLE WORKERS' COMPENSATION LAWS OR OTHER LAWS THAT WOULD OTHERWISE LIMIT BUYER'S OBLIGATIONS HEREUNDER.

**13. MANUALS.** To the extent an equipment manual is delivered to Buyer with goods (applicable exclusively to those goods where such a manual is produced), Seller reserves the right to assess a charge, per manual, for each additional manual requested by Buyer. Each manual produced by Seller is a confidential, proprietary and copyrighted document and may not be copied, published or reproduced in any manner or form without prior written agreement of Seller. Such agreement is at the sole discretion of Seller and Seller may revoke the same at its discretion at any time.

**14. APPROVAL DRAWINGS.** Approval drawings, if provided to Buyer by Seller and either signed by a representative of Buyer with apparent authority to do so or not objected to by Buyer in writing within a reasonable time or, if required, the time required by Seller, shall constitute exclusive proof regarding Buyer's verification and acceptance of the dimensions and other information described therein and Buyer shall be entitled to rely on such approval drawings to develop a Quotation and provide the goods and/or Services referenced therein. Buyer hereby assumes any and all responsibility for any inaccurate or incomplete information contained therein. **TO THE EXTENT THAT BUYER PROVIDES THE DESIGN AND/OR SPECIFICATIONS FOR ANY GOODS OR SERVICES TO BE PERFORMED BY SELLER, BUYER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS SELLER AGAINST ALL CLAIMS, SUITS, AND CAUSES OF ACTION AND FROM ALL COSTS, EXPENSES, DAMAGES AND LIABILITIES (INCLUDING BUT NOT LIMITED TO ATTORNEYS AND CONSULTANTS FEES) FOR ACTUAL OR ALLEGED INFRINGEMENT OF ANY UNITED STATES OR FOREIGN PATENT, COPYRIGHT, TRADEMARK, INTELLECTUAL PROPERTY RIGHTS, OR PROPRIETARY RIGHTS OF THIRD PARTIES BY REASON OF THE USE, SALE, MANUFACTURE, OR DESIGN OF SUCH GOODS AND/OR SERVICES COVERED BY THESE TERMS AND CONDITIONS.**

**15. COMPLIANCE WITH LAWS; EMBARGOES AND ECONOMIC SANCTIONS COMPLIANCE.** Buyer shall at all times comply with all federal, state, local and provincial laws, ordinances, regulations, and orders that are applicable to the goods and/or Services provided by Seller and its performance hereunder, except to the extent that failure to comply therewith could/would not, in the aggregate, reasonably be expected to have a material adverse effect on its business or on its ability to comply with its obligations under these Terms and Conditions.

Buyer represents and warrants that Buyer: (i) is and shall remain in compliance with all laws administered by the United States Office of Foreign Assets Control or any other applicable governmental entity imposing economic sanctions and trade embargoes ("Economic Sanctions Laws") against designated countries, entities and persons (collectively, "Embargoed Targets"); (ii) is not an Embargoed Target or otherwise subject to any Economic Sanctions Law; and (iii) shall comply with all Economic Sanctions Laws. Without limiting the generality of the foregoing, Buyer shall not (a) directly or indirectly export, re-export, tranship or otherwise deliver any goods and/or Services provided by Seller or any portion of such goods and/or Services to an Embargoed Target, or (b) broker, finance or otherwise facilitate any transaction in violation of any Economic Sanctions Law.

**BUYER SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER OR ANY ENTITY AFFILIATED IN ANY WAY THEREWITH FROM ANY CLAIMS, DEMANDS, DAMAGES LIABILITIES, FINES, PENALTIES, LOSSES AND EXPENSES OF AND FROM ANY AND ALL MANNER OF SUITS, ACTIONS OR CAUSE(S) OF ACTION (INCLUDING BUT NOT LIMITED TO SUITS FOR CONTRIBUTION AND/OR INDEMNITY AND ALL GOVERNMENTAL ACTIONS AND/OR SUITS IN LAW, IN EQUITY, OR UNDER STATUTE, OF WHATEVER KIND OR NATURE) ON ACCOUNT OF OR IN ANY WAY ARISING OUT OF BUYER'S BREACH OF THIS SECTION 15.**

**16. SURVIVAL.** Each section hereof intended for the benefit of Seller shall survive the delivery of the goods or expiration or termination of the Services outlined in a Quotation.

**17. ENTIRE AGREEMENT.** These Terms and Conditions and the applicable Quotation, together with Seller's Standard Warranty incorporated herein by reference, represent the

entire agreement between Seller and Buyer. **THESE TERMS AND CONDITIONS AND THE PRICES SET OUT IN A QUOTATION SPECIFICALLY RECOGNIZE THE ALLOCATION OF THE RISKS OF PERFORMANCE OF THE PARTIES AS WELL AS THE LIMITATION OF LIABILITY AND DAMAGES AND THE RECOVERY OF COLLECTION COSTS, AND THE PARTIES EXPRESSLY AGREE THAT THESE LIMITATIONS ON REMEDIES, RESPONSIBILITY FOR COLLECTION COSTS, AND OBLIGATIONS TO INDEMNIFY ARE ESSENTIAL PARTS OF THE AGREEMENT BETWEEN THEM AND ARE SPECIFICALLY BARGAINED FOR.** Any purchase order or other document issued by Buyer shall be deemed to (i) be solely for the record keeping convenience of Buyer, and (ii) confirm these Terms and Conditions and not add to, delete from, or otherwise change or modify these Terms and Conditions or those contained in a Quotation.

**18. SEVERABILITY.** The partial or complete invalidity of any one or more provisions of these Terms and Conditions shall not affect the validity or continuing force and effect of any other provision. If any portion of these Terms and Conditions shall be determined to be invalid or unenforceable, that portion shall automatically be modified to the extent necessary to make it valid. Notwithstanding the foregoing, such determination of invalidity or unenforceability shall not affect any other portion of these Terms and Conditions and such other portions shall remain in full force and effect.

**19. GOVERNING LAW; JURISDICTION.** Any controversy arising out of or related to these Terms and Conditions, a Quotation, the provision of goods and/or Services thereunder, or any contract between Seller and the Buyer shall be construed and governed by the laws of the State of Ohio, including Article 2 of the Uniform Commercial Code as codified in Ohio Revised Code Chapter 1302, notwithstanding conflicts of law principles. Any action arising from or related to these Terms and Conditions, a Quotation, the provision of Services and/or goods thereunder, or any contract between Seller and the Buyer shall be instituted and litigated in any state court located in Clark County, Ohio, or in any federal court with jurisdiction over Clark County, Ohio. Seller and Buyer hereby irrevocably consent to the jurisdiction of the courts of Clark County, Ohio. The rights and obligations of Seller and Buyer will not be governed by the provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods; rather these rights and obligations will be governed by the laws of the State of Ohio.

**20. WAIVER.** No waiver by Seller of any breach of any term or condition of these Terms and Conditions shall be deemed a waiver of any other breach. No delay in enforcement of rights by Seller will be deemed a waiver, and Seller's failure to object to any provision contained in any communication from Buyer shall not be deemed an acceptance thereof or a waiver of any of these terms and conditions.

**21. NUCLEAR LIABILITY.** In the event that the goods and/or Services provided by Seller and/or otherwise identified in these Terms and Conditions or in a Quotation are provided, used, or otherwise employed in, on or around a facility generating and/or otherwise employing in any manner nuclear, radioactive or ionizing radiation whether as a fuel, product or any other substance, the terms and conditions of the Seller Nuclear Liability Addendum (Revision 12.31.2012) incorporated by reference as if fully rewritten herein and a copy of which is attached to the Quotation or is available at Seller's website or upon request of Buyer.

**22. ENGLISH LANGUAGE.** Buyer and Seller confirm that it is their wish that these Terms and Conditions and each Quotation as well as all other documents relating to these Terms and Conditions and each Quotation, including notices, be drawn up in English only. O Comprador e o Vendedor confirmam que é de interesse de ambos que estes Termos e Condições e cada Cotação, assim como todos os outros documentos relativos a estes Termos e Condições e a cada Cotação, incluindo notificações, devem ser redigidos apenas em inglês. L'acheteur et le vendeur confirment qu'ils désirent que les présentes modalités et conditions, chaque devis ainsi que tous les autres documents connexes, y compris les avis, soient rédigés uniquement en anglais. El Comprador y el Vendedor confirman que desean que estos Términos y condiciones y cada uno de los Presupuestos/las Cotizaciones, así como todos los demás documentos relacionados con estos Términos y condiciones y con cada uno de los Presupuestos/las Cotizaciones, incluidas las notificaciones, se redacten únicamente en inglés.