

January 01,2021

EUROPEAN TECHNOLOGY CENTER NORTH AMERICA

**TERMS AND CONDITIONS OF SALE AND SERVICE**

**THIS DOCUMENT CONTAINS VERY IMPORTANT INFORMATION REGARDING A PURCHASER'S RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO ANY SALE OF GOODS OR SERVICES TO BE PROVIDED BY EUROPEAN TECHNOLOGY CENTER NORTH AMERICA, LLC ("SELLER"). PLEASE READ IT CAREFULLY.**

**THESE TERMS REQUIRE THE USE OF ARBITRATION TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS.**

**BY PLACING AN ORDER FOR GOODS OR SERVICES FROM THIS WEBSITE OR FROM A SEPARATE PURCHASE ORDER OR OTHER INSTRUMENT, PURCHASER AFFIRMS THAT IT IS BOUND BY THESE TERMS AND CONDITIONS, AND THAT THE PERSON PLACING THE ORDER HAS THE LEGAL AUTHORITY TO BIND TO THESE TERMS ANY ORGANIZATION OR COMPANY ON BEHALF OF WHICH SUCH PERSON HAS PLACED THE ORDER.**

1. Applicability. The provisions of these Terms and Conditions of Sale and Service (these "Terms") by Seller exclusively govern all sales of goods (the "Goods") and each service project ("Services", and collectively the "Products") to the buyer or entity placing an order for or purchasing any Products ("Purchaser"). Seller's accompanying quotation, confirmation of sale or invoice] (the "Sales Confirmation") and these Terms (collectively, this "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Purchaser's general terms and conditions of purchase regardless whether or when Purchaser has submitted its purchase order or such terms. Fulfillment of Purchaser's order does not constitute acceptance of any of Purchaser's terms and conditions and does not serve to modify or amend these Terms, regardless of whether Purchaser purchases such Products through the medium of purchase orders, service orders, releases, website order or other similar document, whether written, electronic or by telephone order confirmed in writing by Seller (in each case, the "Order"). These Terms are expressly made conditional on Purchaser's assent to all of the terms and conditions as they appear in these Terms. **SELLER EXPRESSLY OBJECTS TO AND REJECTS ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS PROPOSED BY PURCHASER WHETHER OR NOT CONTAINED IN ANY OF PURCHASER'S BUSINESS FORMS, ON PURCHASER'S WEBSITE OR OTHERWISE SUBMITTED BY PURCHASER, AND SUCH ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS SHALL BE DEEMED MATERIAL ALTERATIONS AND SHALL BE VOID AND OF NO EFFECT UNLESS THEY ARE IN A WRITING SIGNED BY SELLER SPECIFICALLY REFERRING TO AND AGREEING TO THE CHANGE.** Any changes to these Terms must be in writing clearly identifying the change as amending the Terms and signed by Seller. Any such agreed upon change or modification may be subject to an adjustment in the purchase price and/or time for performance as determined by Seller in its sole discretion. These Terms and an Order acknowledged by Seller

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constitute firm commitments of Purchaser and are not subject to termination or cancellation or rescheduling without the prior written consent of Seller or as otherwise provided in these Terms.

2. Offer; Acceptance. Purchaser agrees that any Order from Purchaser is an offer to buy, under these Terms, all Products listed in such Order. All Orders must be accepted by Seller or Seller will not be obligated to sell the Products to Purchaser. Seller may choose not to accept Orders at its sole discretion. These Terms are deemed accepted and agreed to by Purchaser upon the earliest of Purchaser (i) signing and returning one copy of these Terms, (ii) Purchaser's issuance of an Order, (iii) Purchaser otherwise notifying Seller of its acceptance, or (iv) Purchaser's acceptance of any Products. Stenographic and clerical errors are subject to correction by Seller. Seller and Purchaser agree that Purchaser may use its order form to order Products, but no terms and conditions contained in any such order form shall apply to the transaction between Purchaser and Seller other than the quantity specified in the order form for the Products identified therein. Seller may, and reserves the right to, reject any Order. If these Terms are deemed an acceptance of a prior offer by Purchaser, Seller's acceptance is expressly made conditional on Purchaser's assent to Seller's additional and different terms as they appear in these Terms and such acceptance is limited to the express terms set forth in these Terms. Purchaser acknowledges and agrees that the Goods have been manufactured by a third-party manufacturer ("Manufacturer") to the Manufacturer's current product specifications, which may vary in details of design and construction from descriptions in literature or samples, displays or other models previously provided to or inspected by Purchaser.

3. Quotations. Any quotation of Seller ("Quotation") is valid only if in writing and for thirty (30) days from the date of the Quotation unless otherwise expressly stated in the Quotation. All Quotations are subject to change or withdrawal without prior notice to Purchaser. Purchaser's acceptance of a Quotation shall include acceptance of these Terms exactly as they appear herein and in the manner set forth above. Quotations are made subject to approval by Seller of Purchaser's credit. Seller shall have no obligation to sell or deliver Products covered by Seller's Quotation unless and until Seller issues an acknowledgement of an Order.

4. Equipment, Material and Tooling. Unless otherwise agreed in writing by Seller, all material, equipment, facilities, and tooling, (which term includes but is not limited to tools, jigs, dies, fixtures, gages, molds, patterns, drawings, plans, sketches, models, samples and replacements thereof) furnished by Seller and used in connection with the Products shall remain the property of Seller. Purchaser shall use its best efforts to protect Seller's property from damage. Any material, tooling or equipment furnished to Seller by Purchaser in connection with the Products shall be and remain the personal property of Purchaser and are held at Purchaser's risk. Seller shall not be responsible or liable for damage thereto or loss or destruction thereof.

5. Prices. Prices are in U.S. Dollars and all prices, discounts, and promotions are subject to change by Seller without notice. If Seller's costs increase or become subject to a surcharge, Seller reserves the right to increase prices and/or surcharge Purchaser in like amount, and Purchaser agrees to accept such price increase or surcharge. Purchaser shall pay the invoice price for all Products in accordance with these Terms. Unless otherwise specified in writing by Seller, if Purchaser does not accept delivery of the blanket ordered quantity during the period specified in the Order, Seller may at its option recalculate and re-invoice the price for the Products to reflect the discount for quantity of Products actually delivered. If Seller specifies that it will install the Products, prices shown include the cost thereof, provided that the installation can be performed during normal business hours. Any overtime charges or other special expenses shall be additional charges to the prices shown. Posted or quoted prices do not include taxes or charges for shipping

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and handling. All such taxes and charges will be added to the total price.

6. Terms of Payment. The inspection rights granted to Purchaser in Section 12 shall not affect or alter the payment terms or the timing of Purchaser's payment obligations. Unless otherwise expressly agreed to by Seller in a signed writing, terms of payment for custom made Goods are 50% upon Seller's acceptance of the Order [**and issuance of the first invoice**] and 50% upon final invoice in accordance with the terms of the invoice. Unless otherwise agreed to by Seller in a signed writing, terms of payment for Services, Services in conjunction with Goods, or non-custom made Goods, are fifty percent (50%) payment of Seller's invoice due before the commencement of Services or the shipment of Goods. The remaining fifty percent (50%) payment of Seller's invoice, plus payment for any additional Services and Goods requested by Purchaser not included in the Seller's original invoice but part of the Order, is due in full upon delivery of the Products. Time of payment is of the essence. Purchaser shall have no right of set-off against Seller by way of deduction, credit or otherwise. Seller shall have the right to offset payables to Purchaser against receivables related to Products purchased by Purchaser. Purchaser agrees to pay interest on overdue invoices at the rate of 2.0% per month on all amounts outstanding, provided, that in no event shall such interest exceed the highest rate permitted by law. Seller and Purchaser agree that the interest on overdue invoices represents a fair and reasonable estimate of the costs that Seller will incur by reason of any such late payment by Purchaser. Acceptance by Seller of the interest on overdue invoices by Seller shall not constitute a waiver of Purchaser's default with respect to the overdue amount, nor prevent Seller from exercising any other rights and remedies available to Seller under these Terms. If Purchaser fails to make any payment as required or if, in Seller's sole judgment, the financial condition of Purchaser is or becomes impaired or unsatisfactory to Seller, Seller may change the terms of payment, including without limitation, (i) the right to require full payment in advance or cash on delivery, accounts receivable insurance or satisfactory security or guarantee that invoices will be promptly paid when due, (ii) charge additional interest or late fees, (iii) defer or discontinue further delivery or terminate any or all Orders of Purchaser, without prejudice to any other lawful or equitable remedy provided to Seller. Without limiting the generality of the foregoing, Purchaser agrees to indemnify Seller for any and all costs and expenses related to a default by Purchaser of the payment terms, including but not limited to, reasonable attorney fees, court costs, and associated expenses incurred by Seller in connection with the foregoing.

7. Taxes and Duties. Purchaser shall pay to Seller, in addition to the purchase price, all fees related to the purchase price for the Products, including, but not limited to, duties, licenses, tariffs, and all federal, state, foreign, municipal or government tax, assessment, charge, cost, sanction, and value added tax (collectively "Taxes"). Failure by the Seller to collect any such Taxes shall not affect Purchaser's obligations hereunder and Purchaser shall fully defend, indemnify and hold harmless Seller with respect to such Taxes.

8. Delivery, Shipment and Work Area. The Goods will be delivered within a reasonable time after Seller's receipt and acceptance of Purchaser's purchase order, subject to availability of the Goods. Seller shall not be liable for any delays, loss, or damage in transit. Delivery, shipment, and service dates are estimated dates only and are based upon Purchaser promptly providing to Seller all necessary information. Estimates in Quotations as to time of delivery, shipment, and service are based on conditions prevailing at the date of such Quotations and are subject to change in Seller's sole discretion. Unless expressly agreed to by the parties in writing, Seller shall select the method of shipment of, and the carrier for, the Goods. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Purchaser. Each shipment will

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constitute a separate sale, and Purchaser shall pay for the units shipped whether such shipment is in whole or partial fulfillment of a Purchase Order.

Seller shall deliver the Goods to the location expressly agreed to by the parties (the “Delivery Point”) using Seller’s (or the applicable Manufacturer’s) standard methods for packaging and shipping such Goods. However, in all cases, all prices and delivery terms for the Goods are EXW Point of Origin, Incoterms® 2020 (i.e., which Point of Origin being either the applicable Manufacturer’s facility or Seller’s facility).

Purchaser shall pay for, and shall hold Seller harmless from, all shipping charges and insurance costs. In addition, all prices are exclusive of, and Purchaser is solely responsible for and shall pay, and shall hold Seller harmless from, all Taxes, with respect to, or measured by, the manufacture, sale, shipment, use or price of the Goods (including interest and penalties thereon). Purchaser shall take delivery of the Goods when the Goods have been delivered to the Delivery Point. Purchaser shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point, and will unload and release all transportation equipment promptly so Seller incurs no demurrage or other expense. If Seller incurs any costs or expenses related to export of the Products, Purchaser agrees to indemnify Seller for all such costs and expenses, which will be in addition to the purchase price.

Purchaser shall prepare all work areas for Seller’s Services under the applicable Order. Seller shall not be required to provide any Services until, in Seller’s discretion, sufficient areas are ready to assure completion of the Services. Purchaser shall furnish all temporary site facilities, including but not limited to, suitable storage space, at no cost to Seller.

9. Inspection. Prior to delivery of the Goods to Purchaser, the Goods will undergo a final test procedure at the applicable Manufacturer’s location. Unless otherwise agreed to by the parties, upon completion of the Services and/or installation of the Goods at Purchaser’s facility, Seller will perform a final performance and validation test. In any case, Purchaser shall inspect the Goods upon delivery and participate in the final performance and validation testing. If Purchaser fails to provide Seller with notice of nonconformity at the time of such final testing, Purchaser shall be deemed to have accepted the Products. Purchaser shall have no right to return any Goods, whether purchased in conjunction with Services or not, without Seller’s prior written authorization. Purchaser will be responsible for all costs and expenses associated with any Seller authorized returns of Goods and will bear the risk of loss or damage of such Goods, unless Seller otherwise agrees in writing. Seller, in its sole discretion, may reject any return of Goods not approved by Seller in accordance with this Section.

10. Title and Risk of Loss. Title to Goods passes to Purchaser upon delivery of such Goods to the Delivery Location. Risk of loss to all Goods ordered under any Order passes to Purchaser at the applicable Manufacturer’s or Seller’s location, as per EXW Point of Origin, Incoterms® 2020.

11. Design or Engineering Changes. At the request of Seller, Purchaser shall fully cooperate with Seller to implement any necessary changes in Seller’s installation or service processes to provide the Services or complete installation of the Goods. Seller may reject any of Purchaser’s requests for changes to an Order, including but not limited to, the specifications, samples or descriptions of Goods; time or place of delivery of Products; method of packing or shipment; or the quantity of Goods or extent of Services.

12. Cancellation. Seller reserves the right to cancel any Orders or terminate any agreement relating to purchase of Seller’s Products, if Purchaser has breached any provision of these Terms or Seller has reasonable grounds to believe Purchaser shall breach these Terms, on written notice

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to Purchaser. Once Seller has accepted an Order or has begun taking action with respect to such Order, Purchaser may not cancel, terminate or modify such Order in whole or in part, except with Seller's consent in writing, and then only upon terms that will compensate Seller for its engineering, fabrication and purchasing charges and other costs related to such cancellation, termination or modification plus a reasonable profit.

13. Spare Parts and Operating Manual Seller expects to be able to obtain spare parts for the Goods from the applicable Manufacturer for a reasonable period of time after purchase of the Goods by Purchaser, but Seller does not warrant or guarantee in any way the availability of such spare parts for any length of time. Seller recommends that Purchaser purchase and maintain a sufficient supply of spare parts on hand. Seller will deliver one copy of the applicable Manufacturer's operating manual for the Goods as then in effect to Purchaser upon delivery of the Goods. Purchaser agrees from time to time to update the operating manual with all additions, corrections, service bulletins and other similar information provided from time to time by Seller or the Manufacturer. Purchaser shall deliver the operating manual in its then current condition to any person acquiring the Goods, or any material portion thereof, from Purchaser. Purchaser shall not use or disclose the operating manual to any third party, other than as necessary for the installation, use, operation and maintenance of the Goods.

14. Manufacturer's Warranty and Disclaimer.

Seller does not manufacture or control any of the Goods offered. The availability of Goods does not indicate an affiliation with or endorsement of any product, service, or manufacturer. Accordingly, Seller does not provide any warranties with respect to the Goods it offered on its website or otherwise. However, the Goods offered covered by the applicable Manufacturer's warranty as detailed in the Good's description included with the Good. To obtain warranty service for defective products, Purchasers are required to follow the instructions included in the Manufacturer's warranty.

**ALL GOODS AND SERVICES OFFERED BY SELLER ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) 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.**

**SOME JURISDICTIONS LIMIT OR DO NOT ALLOW THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES SO THE ABOVE DISCLAIMER MAY NOT APPLY TO A PARTICULAR PURCHASER.**

**PURCHASER AFFIRMS THAT SELLER SHALL NOT BE LIABLE, UNDER ANY CIRCUMSTANCES, FOR ANY BREACH OF WARRANTY CLAIMS OR FOR ANY DAMAGES ARISING OUT OF THE MANUFACTURER'S FAILURE TO HONOR ITS WARRANTY OBLIGATIONS RELATING TO THE GOODS.**

15. Limitation of Liability.

**SELLER HAS BEEN GIVEN ASSURANCES OF PRODUCT SALABILITY, MERCHANTABILITY, AND COMPLIANCE FROM THE MANUFACTURERS. IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH**

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**ANY BREACH OF THESE TERMS, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.**

**SELLER'S SOLE AND ENTIRE MAXIMUM LIABILITY, FOR ANY REASON, AND PURCHASER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY PURCHASER FOR THE GOODS AND SERVICES PURCHASER HAS ORDERED AND SELLER HAS ACCEPTED.**

**NOTWITHSTANDING ANY STATUTE OF LIMITATIONS TO THE CONTRARY, ANY CAUSE OF ACTION FOR ANY ALLEGED BREACH OF THESE TERMS BY SELLER SHALL BE BARRED UNLESS COMMENCED BY PURCHASER WITHIN ONE (1) YEAR FROM THE ACCRUAL OF SUCH CAUSE OR ACTION.**

16. Security Interest. Purchaser hereby grants Seller a security interest in all Goods purchased hereunder and the proceeds therefrom to secure Purchaser's payment obligations under the Agreement. Purchaser acknowledges that the security interest granted under this Section is a purchase money security interest under applicable law. Seller may file a financing statement for such security interest and Purchaser shall execute any such statements or other documentation necessary to perfect Seller's security interest in such Goods. In order to secure payment in full for the purchase price of the Services and other amounts due, to the extent not otherwise provided by operation of law Purchaser hereby grants Seller the right to a mechanic's lien on all of the real or personal property ("Purchaser's Property") serviced by Seller and proceeds thereof together with all insurance proceeds with respect thereto. Seller may take any actions it deems desirable or necessary with respect to such mechanic's lien and the assertion or perfection thereof and Purchaser shall cooperate with Seller with respect to the foregoing. Any security interest or lien retained by Seller under these Terms shall not render the Seller otherwise responsible for the Collateral or Purchaser's Property. The Collateral and Purchaser's Property shall be the responsibility of Purchaser and Purchaser shall indemnify and hold Seller harmless from any and all claims, costs, expenses (including, but not limited to, attorneys fees), damages and losses relating to the Collateral and Purchaser's Property.

17. Right of Reclamation. Seller may, at any time it believes in its sole discretion that Purchaser is insolvent, cease any further delivery of Products to Purchaser, and demand and immediately receive the return of any Goods Seller has provided that Purchaser has not yet paid in full, whether or not such Goods were sold, commingled, or capable of being identified, traced, or matched to any particular invoice, Order, or similar document. Purchaser shall return the Goods within seven (7) days of receipt of such demand. Seller and Purchaser expressly acknowledge and agree that this contractual right of reclamation is independent of and in addition to any statutory or common-law right of reclamation and is not subject to or conditioned upon any additional statutory or common law requirement, including, without limitation, that (i) Purchaser was actually insolvent when it received the Goods, (ii) Seller provided the Goods to Purchaser in the ordinary course of business or on ordinary business terms, and (iii) Purchaser had the Goods in its possession or subject to its control at the time it received Seller's demand for the return of the Goods. In the event of a bankruptcy proceeding, Purchaser recognizes, acknowledges, and agrees that Seller shall be entitled, without challenge, defense, offset, or counterclaim, to the immediate payment in cash of the amounts subject to such reclamation

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demand or the immediate return of such Goods, at the option of Seller.

18. Intellectual Property. Unless otherwise agreed to by the Manufacturer of the applicable Goods, all intellectual and industrial property and all rights therein relating to or resulting from the Products, disclosed or otherwise provided to Purchaser by Seller, or otherwise contained in any item or documentation relating thereto, including, but not limited to, all drawings, designs, know-how, specifications, inventions, devices, developments, processes, trade secrets, copyrights, trademarks, servicemarks, patents and applications therefor, engineering details, service manuals and other data and information, and all rights therein (collectively, "Intellectual Property") is and shall remain the property of the Manufacturer, and shall be kept confidential by Purchaser pursuant to these Terms. Purchaser shall have no claim to, nor ownership interest in, any Intellectual Property and such Intellectual Property in whatever form and any copies thereof shall be promptly returned to Seller or the Manufacturer as requested by Seller. Purchaser acknowledges that, unless expressly provided in writing, no license or rights of any sort are granted to Purchaser hereunder in respect of any Intellectual Property, other than the limited right to use the Products purchased. The sale of Products to Purchaser does not include any design, development or related services associated with the Intellectual Property of the Seller or the intellectual property of the Manufacturer.

19. Confidential Information. Purchaser shall hold in strict confidence and not disclose or duplicate any information, including, but not limited to, Intellectual Property or information otherwise designated as being proprietary to Seller or the Manufacturer, as the case may be ("Confidential Information") without the prior written consent of Seller. The foregoing shall not apply to any Confidential Information which becomes generally available to the public through no act or omission of Purchaser and otherwise without breach of any agreement, limitation or restriction.

20. Indemnification. In addition to any other indemnification and other obligations of Purchaser hereunder, Purchaser shall defend, indemnify and hold harmless Seller and its affiliates and each of their respective shareholders, members, owners, officers, directors, managers, agents, employees and representatives (the "Seller Indemnitees") from and against any and all claims, sums, costs, liabilities, losses, obligations, suits, actions, damages, penalties, fines, interest, costs and other expenses (including, but not limited to, investigation expenses and attorneys' fees) (collectively, "Claims") arising or alleged to arise out of (i) Purchaser's negligence or Purchaser's use, ownership, maintenance, transfer, transportation, processing, application, sale or disposal of the Products, (ii) Purchaser's plans or specifications or otherwise arising or alleged to arise out of the Products ordered by Purchaser or any Services provided by Seller to Purchaser; (iii) any infringement or alleged infringement of the industrial or intellectual property rights of others arising or alleged to arise from Purchaser's plans, specifications (including, but not limited to, Purchaser's trademarks, servicemarks and brand names); (iv) Purchaser's violation or alleged violation of any federal, state, foreign, county or local laws or regulation, including without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices; or (v) Purchaser's breach, misrepresentation or nonperformance of these Terms. This Section survives any termination, cancellation or expiration of these Terms or any Order.

21. Force Majeure. Seller shall not be liable or deemed in default for any late deliveries of Products hereunder or for any other delays or failure to perform where the late delivery, delay or failure to perform has been occasioned by acts of God, fire, embargo, labor or industry disruptions or disturbances, weather, shortage of materials, strikes, civil disorders, acts of terrorism, war, epidemics, computer malfunctions, vendor allocations, accidents, governmental, regulatory or

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legal action or orders, delays caused by Purchaser (including, but not limited to, Purchaser's failure to promptly comply with the terms of payment), failure to secure materials from usual sources of supply, acts or omissions on the part of carriers, or any other circumstances beyond Seller's control not herein enumerated. The parties shall in good faith determine an equitable adjustment for Seller's additional costs due to unanticipated delays or accelerations.

22. Waiver of Jury Trials and Binding Arbitration.

**PURCHASER AND SELLER ARE AGREEING TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY. OTHER RIGHTS THAT PURCHASER WOULD HAVE IF IT WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION.**

**ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN PURCHASER AND SELLER ARISING FROM OR RELATING IN ANY WAY TO PURCHASER'S PURCHASE OF PRODUCTS FROM SELLER, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.**

The arbitration will be administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules and Mediation Procedures ("Commercial Rules"), and will be held in Southfield, Michigan. The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the agreement is void, voidable or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction. If any provision of this arbitration agreement is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced.

23. Successors and Assigns; No Assignment. These Terms bind and inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns. Purchaser shall not assign any interest in, nor delegate any obligation under, these Terms or any Order without the prior written consent of Seller.

24. Entire Agreement; Modifications; No Implied Waiver. These Terms, including any applicable Seller Quotations and service rates and conditions, are intended by the parties as a complete and exclusive statement of their agreement. These Terms may not be altered, modified or waived except by written agreement of Seller. Waiver by Seller of any breach of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach, and the failure of Seller to exercise any right arising from any default of Purchaser hereunder shall not be deemed to be a waiver of such right.

25. Severability. In case any of the terms or conditions contained herein shall be held invalid, illegal, or unenforceable, in whole or in part, neither the validity of the remaining part of such terms, nor the validity of any other term hereof shall be affected thereby.

26. Governing Law. The validity, construction and performance of these Terms shall be governed by and interpreted in accordance with the laws of the State of Michigan, without giving effect to any choice or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Michigan. The parties agree that the U.N. Convention on Contracts for the



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International Sales of Goods does not apply to this Agreement.

27. Survival. The provisions of these Terms that by their nature are reasonably intended to survive termination, cancellation or expiration, shall survive any termination, cancellation or expiration of these Terms or any Order.

28. Credits and Benefits. Credits or benefits resulting from any Order by Purchaser or otherwise with respect to the Products, including, but not limited to, trade credits, export credits, duty and import drawback rights, and the refund of duties, taxes, or fees, belong to Seller. Purchaser will provide all information and certificates necessary to permit Seller to receive these benefits or credits.

29. Export Regulation (EAR and ITAR) Covenant. Purchaser acknowledges that the Goods, including any software, documentation and any related technical data included with, or contained in, such Goods, and any products utilizing any such Goods, software, documentation, or technical data (collectively, "Regulated Goods") may be subject to US export control Laws and regulations, including the Export Administration Regulations for which the Export Control Reform Act of 2018 provides permanent statutory authority, and the International Traffic in Arms Regulations administered by the US Department of State. Purchaser shall not, and shall not permit any third parties to, directly or indirectly, export, re-export, or release any Regulated Goods to any jurisdiction or country to which, or any party to whom, the export, re-export or release of any Regulated Goods is prohibited by applicable federal or foreign law. Purchaser shall be responsible for any breach of this Section by its, and its successors' and permitted assigns', parent, affiliates, employees, officers, directors, partners/members/shareholders, customers, agents, distributors, resellers, or vendors that are not Purchaser or Purchaser's representatives.

30. Headings. The headings contained in these Terms are for convenience of reference only and shall not affect the meaning or interpretation of these Terms.

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