

## TERMS AND CONDITIONS OF SALE – FINISHED GOODS

January 16, 2019

**1. Offer and Acceptance.** The sale of products and services (“Products”) by seller as designated on the face hereof or attached writing (“Seller”) to the purchaser (“Purchaser”) are exclusively governed by the terms and conditions herein, together with Seller’s order specific terms agreed to in writing by the parties relating to Product prices, quantity, specifications, delivery schedules and locations (collectively, this “Contract”). Issuance of a purchase order or acceptance of the Products by Purchaser constitutes acceptance of these terms and conditions. Any additional or different terms or modifications to this Contract proposed by Purchaser, whether in a purchase order or otherwise, are expressly rejected by Seller and are not part of this Contract

**2. Price.** Prices quoted by Seller are valid for thirty (30) days from date of quotation. Except where otherwise prohibited by law, all applicable sales, excise, use or similar taxes or charges for the sale of Products will be in addition to the stated price and paid by Purchaser. Seller reserves the right to increase any price in the event of increased costs attributed to reasons beyond Seller’s reasonable control (e.g., force majeure events), and also including without limitation, increases related to: (a) energy, labor and raw material costs, (b) modifications to specifications, quantity of ordered Products or Product acceptance criteria requested by Purchaser, (c) price of goods manufactured by others and re-sold by Seller, and/or (d) any extra costs resulting from changes in the law, statutes, tariffs, and/or other or regulatory compliance matters impacting the cost of goods manufactured or pricing.

**3. Payment.** Purchaser agrees to pay in U.S. Dollars, without offset, all invoiced amounts within thirty (30) days from date of Seller’s invoice. Overdue payments bear interest at the rate of 1.5% per month or the maximum rate permitted by law. Seller will have the right, among other remedies, including the right of setoff, either to terminate this Contract or to suspend further deliveries under this Contract and/or other agreements with Purchaser in the event Purchaser fails to make any payment when due. Purchaser will be liable for all expenses related to collection of past due amounts, including attorneys’ fees. Seller may require full or partial payment in advance of shipment if, in Seller’s opinion, the credit or financial condition of Purchaser is, or is about to become, impaired. If Purchaser requests delayed shipment, Seller may bill for Products when ready for shipment and charge reasonable daily storage fees. Seller retains a security interest in Products and tooling delivered to Purchaser until payment, and Purchaser agrees to execute documents as may be presented by Seller to perfect this security interest.

**4. Shipping and Delivery.** Seller will use reasonable efforts to deliver Products on time, but will not be liable for any expenses or damages incurred as a result of late delivery or for delays caused by circumstances beyond Seller’s reasonable control. If Purchaser does not provide routing instructions, Seller will decide the method for routing shipment. All sales of Products are F.O.B. Seller’s plant or Ex Works (Incoterms 2010) with respect to sales to international locations. All shipping and insurance expenses and risk of loss are assumed by Purchaser. Seller reserves the right to ship and Purchaser agrees to accept an underrun or overrun of any quantity up to and including 10% of the quantity ordered by Purchaser. If Seller is unable to meet Purchaser’s delivery requirements or timing, Purchaser may cancel the affected order and/or this Contract.

**5. Rejections and Returns.** Purchaser will be deemed to have inspected and accepted all delivered Products unless written notice of rejection, specifying the basis therefore in reasonable detail, is provided to Seller within thirty (30) days after delivery. Purchaser may not return Products without Seller’s prior written approval in the form of a Return Material Authorization.

**6. Limited Warranty.** Seller warrants to Purchaser that: (a) the Products will be free from defects in workmanship and materials, and will conform to the specifications provided by Purchaser and agreed to by Seller; and (b) Seller will transfer to Purchaser good title to Products delivered, free of all liens, encumbrances except those created by Purchaser. This warranty will continue for one (1) year from delivery of the Products. THE WARRANTIES AND ANY ASSOCIATED REMEDIES INDICATED HEREIN ARE EXCLUSIVE. NO OTHER WARRANTY, WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED BY SELLER OR MAY BE INFERRED FROM A COURSE OF DEALING OR USAGE OF TRADE. TO THE EXTENT ALLOWED BY LOCAL LAW, SELLER DISCLAIMS ALL IMPLIED WARRANTIES OR CONDITIONS INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES OF NON-INFRINGEMENT.

**7. Limited Remedy.** Any warranty claims by Purchaser will be provided to Seller in writing and must be given within the warranty period otherwise such claims will be deemed late and unconditionally waived. Purchaser's sole and exclusive remedy for a valid warranty claim is either replacement of the Product or a full refund of the price paid by Purchaser for the Product. These remedies do not include the cost of installation, removal, dismantling, or reinstallation. Purchaser will provide Seller with access to all available warranty data and field returned Products. Purchaser will also provide Seller with an opportunity to participate in root cause analysis performed by Purchaser concerning the Products. Seller will have no liability to the extent Products are or have been: (a) modified by Purchaser or a third party; (b) modified by Seller at Purchaser's request, in particular design or specifications which have been provided by Purchaser or Purchaser's customer; (c) made to design or specifications not provided by Seller; (d) used or installed in a way not known to Seller or operated under conditions not known to Seller; or (e) subject to misuse, abuse or improper storage, installation or maintenance. Products replaced during the warranty period will be under warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer.

**8. Indemnity and Limitation of Liability.** Each party as an "Indemnitor" respectively as the case may be, will defend or settle at its sole expense, any third party product liability claims, demand or suit ("Claims") made against the other party ("Indemnitee") as it concerns damage to tangible property, bodily injury and/or death to the extent caused by the Indemnitor's (a) defective design, (b) manufacturing defect when the product does not meet the agreed specification, (c) inadequate instructions or warnings, or (d) negligent acts, omissions or willful misconduct, including negligent provision of services. Indemnitee will provide prompt written notice of the Claim, all requested information about the Claim, reasonable cooperation and assistance, and sole authority to defend or settle the Claim. Indemnitor will keep Indemnitee informed of the progress of the Claim and will confer with Indemnitee on strategies for the defence and settlement of the Claim as may be appropriate. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, EXCEPT FOR BREACH OF OBLIGATIONS OF CONFIDENTIALITY, MISAPPROPRIATION OF INTELLECTUAL PROPERTY, OR LOSS OF SELLER'S ANTICIPATED PROFITS, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND. THE TERM "CONSEQUENTIAL DAMAGES" INCLUDE, BUT IS NOT BE LIMITED TO, LOSS OF USE, LOSS OF REVENUE AND COST OF CAPITAL. EXCEPT FOR PERSONAL INJURY OR DEATH DUE TO SELLER'S NEGLIGENCE OR WILLFUL MISCONDUCT, THE TOTAL DAMAGES THAT CAN BE AWARDED IN ANY CLAIM BY PURCHASER RELATING TO SELLER'S OBLIGATIONS UNDER THIS CONTRACT (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE), WILL NOT EXCEED THE COMBINED TOTAL OF AMOUNTS PAID BY PURCHASER TO SELLER UNDER THIS CONTRACT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. THE ABOVE LIMITATIONS ON LIABILITY PROVISION WILL REMAIN IN FULL FORCE AND EFFECT EVEN IF IT IS FOUND THAT PURCHASER'S EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE

**9. Recall.** In the event of a voluntary or government-mandated offer by Purchaser to its customers to remedy an alleged defect that affects safety or to address an alleged failure of an end product to comply with an applicable safety standard or guideline (a "Recall"), Seller's liability for costs and damages from a Recall resulting in whole or in part from a failure of the Products to conform to the warranties above will be negotiated on a case-by-case basis, based on (a) a good faith allocation of responsibility for the Recall, (b) the reasonableness of the costs and damages incurred, (c) the quantity purchased and applicable price of the affected Products, and (d) other relevant factors. Seller's liability under this Section is conditioned upon Purchaser (i) notifying Seller as soon as practicable after Purchaser learns that a potential Recall implicates the Products, (ii) providing Seller with available performance evaluations, accident reports, engineering investigations, and other data relating to the potential Recall, (iii) providing Seller a reasonable opportunity to participate in inquiries and discussions among Purchaser, its customer and governmental agencies regarding the need for and scope of the Recall, and (iv) consulting with Seller about the most cost-effective method of modifying or replacing systems or component parts, including the Products, in order to remedy the alleged defect or non-compliance.

**10. Patent Infringement.** Seller will defend or settle, at its sole expense, any third party claim, demand or suit ("Claim") against Purchaser alleging that any Product infringes a U.S. patent, and will indemnify Purchaser against any and all losses awarded or assessed against Purchaser in connection with the Claim, or reached through a negotiated settlement of the Claim; provided, that (a) the alleged infringement does not arise from Seller's compliance with specifications or designs furnished by Purchaser; (b) Seller receives prompt written notice of such Claim and exclusive control over the defense and/or settlement of the Claim; and (c) Purchaser provides Seller with all information available to Purchaser for the defense and cooperates with Seller in the defense, and does not take a position adverse to Seller. Further, Seller will have no liability under this section, and Purchaser will indemnify Seller for any Claims by third parties against Seller as well as for any related other costs (including reasonable consultant, attorney and expert fees), if and to the extent that a claim of infringement is

based on (1) a Product modification made by Purchaser or a third party, or made by Seller at Purchaser's request, (2) use or interconnection by Purchaser of the Product in combination with other products not made or sourced by Seller, (3) used, installed or operated in a way not known to Seller or (4) Products made to design or specifications not provided by Seller, in particular design or specifications which have been provided by Purchaser or Purchaser's customer. Except for third party claims above, and subject to the limitations above, Seller's exclusive obligation to Purchaser as to Products declared to infringe, and Seller's right as to Products which Seller believes are likely to infringe, is the acquisition of a license, the replacement of Products with non-infringing goods, the modification of the Products so that they are non-infringing, or the return of the purchase price for the Products, as Seller may elect in its sole discretion. THIS PARAGRAPH 10 STATES THE ENTIRE LIABILITY OF SELLER AND PURCHASER'S LIMITED REMEDIES REGARDING PATENT INFRINGEMENT CLAIMS RELATED TO THE PRODUCTS.

**11. Ownership of Proprietary Materials.** Seller will have and retain all intellectual property rights in all Products, tooling and associated materials, furnished by Seller in connection with or pursuant to this Contract, including, without limitation, patents, utility models, design rights (and any pending applications), trademarks, copyrights, technical, business, economic or know-how information, trade secrets, confidential proprietary information, inventions, data, formulae, material compositions, drawings, specifications, and any right related thereto (whether or not patentable) that is not generally available to the public ("Proprietary Materials"). No Proprietary Materials created by Seller in connection with or pursuant to this Contract will be considered "works made for hire" as that term is used in connection with the U.S. Copyright Act. To the extent that Purchaser owns any rights in such Proprietary Materials, Purchaser hereby irrevocably assigns to Seller all rights, title and interest, including all intellectual property rights, in and to such Proprietary Materials.

**12. Tooling.** Tools purchased and fully paid for by Purchaser will be the property of Purchaser and may be removed from Seller's premises upon reasonable notice after termination of this Contract, with the exception of tools containing Seller's Proprietary Materials. To the extent tools contain Seller's Proprietary Materials, such tools may not be removed from Seller's premises and must remain in the custody of Seller unless otherwise mutually agreed to in writing. Tools partially paid for by Purchaser will remain the property of Seller.

**13. Technical Advice.** Unless otherwise agreed mutually in writing, any technical advice furnished by Seller to Purchaser before or after delivery of the Products is provided "as is" and on a gratuitous basis, without charge, and on the basis that it represents Seller's good faith judgment, but without warranty of any kind, and is accepted at Purchaser's sole risk.

**14. Compliance with Law.** The parties will comply with applicable federal, state, local and foreign laws, orders, rules, regulations and ordinances. If Purchaser exports, re-exports, or imports Products, then Purchaser assumes sole responsibility for complying with the applicable laws and regulations and for obtaining required export and import authorizations of any applicable jurisdiction or country. Unless otherwise agreed in this Contract, Purchaser also assumes sole responsibility for costs and for legal compliance: (a) outside the U.S., including, without limitation, the European regulation for the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"), (b) related to the withdrawal of the United Kingdom from the European Union, referred commonly as "BREXIT", (c) as to the California law known as Proposition 65 with respect to products which Purchaser sells, (d) as to products made by Purchaser which incorporate the Products, and (e) as to any use of Products by Purchaser or its customers other than as covered by the Limited Warranty of this Contract. The parties will respectively comply with all applicable anti-corruption laws, including, without limitation, the U.S. Foreign Corrupt Practices Act (FCPA), and the U.K. Bribery Act, and that neither it nor any of its subcontractors, vendors, agents or other associated third parties will engage in any form of commercial bribery, nor directly or indirectly provide or offer to provide, anything of value to or for the benefit of, any official or employee of a governmental authority or of any government-owned, government-controlled or government-affiliated entity to obtain or retain any contract, business opportunity or other business benefit, or to influence any act or decision of that person in his/her official capacity.

**15. Confidentiality.** If the parties have entered into a Confidentiality or Non-Disclosure Agreement ("NDA"), the terms and conditions of the NDA will apply and control for confidentiality obligations between the parties. In connection with this Contract, Purchaser may have access to Seller's confidential information, including, without limitation inventions, developments, know how, specifications, business plans, results of testing, systems, financial information, product information, methods of operation, customer information, supplier information and compilations of data ("Seller's Confidential Information"). Purchaser will use Seller's Confidential Information only for the purposes contemplated under this Contract and will not disclose it to third parties. Purchaser will maintain the confidentiality of Seller's Confidential Information in the same manner, but in no event less than the manner, in which it protects its own confidential information.

Purchaser is permitted to disclose Seller's Confidential Information to its employees and authorized subcontractors on a need to know basis only, provided that such employees and authorized subcontractors have written confidentiality obligations to Purchaser no less stringent than the confidentiality obligations under this Section. Upon termination of this Contract, Purchaser will return Seller's Confidential Information and will not use Seller's Confidential Information for its own or any third party's benefit. Purchaser's confidentiality obligations will survive termination of this Contract for so long as Seller's Confidential Information remains confidential. In order to assure that Seller is able to obtain the full benefit of the restrictions set forth in this Section, Seller will be entitled to injunctive relief, including, but not limited to, emergency, preliminary, and permanent injunctions from any court with jurisdiction as necessary to enjoin any violation of the foregoing covenants, without the necessity of proving immediate irreparable harm or an inadequate remedy at law.

**16. Contract Work.** Purchaser and Seller are independent contractors and nothing herein makes a party the agent or legal representative of the other party for any purpose, and neither party has authority to assume or create any obligation on behalf of the other party.

**17. Termination by Seller.** In addition to any other rights of Seller to terminate or suspend this Contract, Seller may, upon written notice to Purchaser, immediately terminate or suspend all or any part of this Contract without any liability to Purchaser, (a) if Purchaser (i) repudiates, breaches, or threatens to breach any of the terms of this Contract, (ii) fails to accept or threatens not to accept Products in accordance with this Contract, or (iii) fails to make timely payment, or (b) upon the occurrence or threat of insolvency or bankruptcy of Purchaser. Upon termination of this Contract by Seller: (A) Seller will be relieved of any further obligation to Purchaser; (B) Purchaser will be liable to Seller for the immediate payment of amounts then billed to date by Seller to Purchaser; (C) Purchaser will purchase and pay Seller immediately for all unique raw materials, work in process and finished goods under this Contract; (D) Purchaser will reimburse Seller for any unreimbursed and unamortized research and development costs, capital equipment, and supplies that are unique to the Products; and (E) Purchaser will immediately reimburse Seller for all preparation and other expenses incurred by Seller or its subcontractors in connection with this Contract and for all other losses or costs arising from termination.

**18. Termination by Purchaser.** If Seller fails to perform any material obligation under this Contract or delivers Product after an agreed upon delivery date, and, if the non-performance can be cured but Seller fails to cure the non-performance within thirty (30) days after written notice from Purchaser, Purchaser may terminate this Contract without further obligation. Otherwise, upon giving written notice to Seller not less than ninety (90) days prior to shipment Purchaser may cancel any purchase order or scheduled delivery under this Contract, in which case: (a) Seller will be relieved of any further obligation to Purchaser; (b) Purchaser will pay all amounts then due; (c) Purchaser will purchase and pay Seller immediately for all unique raw materials, work in process and finished goods under this Contract; and (d) Purchaser will reimburse Seller for any unreimbursed and unamortized research and development costs, capital equipment, and supplies that are unique to the Products.

**19. Force Majeure.** Neither party will be liable if its performance is delayed or made impossible or commercially impracticable due to acts of God, civil commotion, terrorism, military authority, war, riot, fire, labor trouble or strikes, unavailability of materials or components, explosion, breakdown or accident, delay in transportation, plant shutdown, compliance with governmental requests, laws, regulations, order or actions, unforeseen circumstances, or causes beyond such party's reasonable control.

**20. Governing Law, Jurisdiction and Venue.** This Contract is governed by and construed in accordance with the laws of the State of Michigan without reference to the choice of law principles thereof. The Convention on Contracts for the International Sale of Goods is expressly excluded. Subject to the provisions of Dispute Resolution below, each party irrevocably submits to the jurisdiction of the Courts of the State of Michigan and the United States District Court for the Eastern District of Michigan and hereby waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding.

**21. Dispute Resolution.** In the event of any dispute or disagreement between Seller and Purchaser arising out of or relating to this Contract (a "Dispute"), such Dispute, upon the written request of Seller or Purchaser, will be referred to the chief financial officers of each party or their respective designees who will promptly meet in good faith to resolve the Dispute and if they do not agree upon a resolution within thirty (30) calendar days after the reference of the Dispute to them, then such Dispute, upon written notice from one party to the other of its intent to arbitrate (an "Arbitration Notice"), will be submitted to and settled exclusively by final and binding arbitration in lieu of any judicial proceeding; provided, however,

that nothing contained in this Section will preclude any party from seeking or obtaining from a court of competent jurisdiction (a) injunctive relief, or (b) equitable or other judicial relief to specifically enforce the provisions of this Contract or to preserve the status quo prior to the event(s) leading to the Dispute. Arbitration will be conducted by the American Arbitration Association in Southfield, Michigan before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect at the date of submission of the Dispute to arbitration. Any arbitration award will be binding and enforceable against Seller and Purchaser and judgment may be entered thereon in any court of competent jurisdiction. Notwithstanding the forgoing, any Dispute relating to or arising out of, in whole or in part, any breach of Purchaser's obligations of confidentiality hereunder or for the misuse or infringement of Seller's intellectual property rights by Purchaser will not be subject to binding arbitration under this Contract.

**22. Assignment, Waiver, Entire Agreement, Severability.** Purchaser may not assign or delegate any of its rights or obligations under this Contract without prior written consent from Seller. Seller may terminate this Contract upon giving at least sixty (60) days written notice to Purchaser, without any liability to Purchaser, if there is a change of control of Purchaser. Seller may assign its rights and obligations under this Contract at any time, without Purchaser's prior written consent. The failure of either party to enforce any right or remedy provided in this Contract or by law on a particular occasion will not be deemed a waiver of that right or remedy on a subsequent occasion or a waiver of any other right or remedy. This Contract constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Contract. This Contract may not be modified unless in writing and signed by authorized representatives of both parties. Any provision found invalid or unenforceable will not affect the validity or enforceability of any other provision and the invalid provision may be judicially modified to the extent enforceable.

**23. Two Year Limitation.** Neither party may bring a claim or action arising out of or related to this Contract, including any claim of fraud or misrepresentation, more than two (2) years after the cause of action accrues.