



## SALES TERMS AND CONDITIONS

EFFECTIVE: June 1, 2021

### 1. CUSTOMER ACKNOWLEDGEMENT

Purchaser acknowledges agreement with these Terms of Sale by placement of an order to purchase goods from the Seller or its acceptance of goods called for in a purchase order. These Terms of Sale are the only terms that govern the sale of goods and supersede all prior written terms, understandings, purchase orders and assurances.

### 2. MODIFICATION OF TERMS AND CONDITIONS

Seller's acceptance of any order is subject to Purchaser's assent to all of the terms and conditions set forth in Seller's acknowledgment, and Purchaser's assent to these terms and conditions shall be presumed from Purchaser's failure to object in writing to these terms and conditions within ten (10) days after Purchaser's receipt of Seller's acknowledgment. If a purchase order or other correspondence contains terms or conditions contrary to the terms and conditions contained in Seller's acknowledgment, or any changes or updates made to the Purchaser's terms and conditions over the life of the program, Seller's acceptance of any order shall not be construed as Seller's assent to any additional terms and conditions, nor will that constitute a waiver by Seller of any of the terms and conditions contained in Seller's acknowledgment. These Terms of Sale may only be amended or modified in a writing which states that it specifically amends these Terms of Sale and is signed by an authorized officer of Seller.

### 3. PRICING

As there are certain elements of cost that are beyond the control of the Seller, the Seller reserves the right to adjust pricing to recover such increases.

Due to highly volatile Post COVID conditions, the seller will be adjusting PO pricing at time of receipt to accommodate the current market price for Material and labor. The buyer will be notified of changes prior to PO receipt by the seller.

The Seller will confirm and adjust pricing approximately sixty (10) days prior to start of production as needed to recover uncontrollable cost increases. After production similar adjustments will be made by the Seller as needed and agreed to by the Buyer.

### 4. SHIPMENTS AND PAYMENT TERMS

Unless otherwise quoted, prices shall be those in effect at time of shipment which shall be made Ex-Works. Payment terms [net 30]. In addition, a monthly service charge of 1-½ % per month will be added to past due invoices at the Seller's discretion.



## RETURN OF GOODS

Purchaser shall immediately inspect all goods from Seller upon Purchaser's receipt and Purchaser shall, within five (5) days of such receipt, notify Seller in writing of Purchaser's rejection of part or all of the goods and the reason(s) for such rejection. In the event that such notice is not timely given, Purchaser expressly waives all rights to reject acceptance of the goods and shall have accepted such goods and is liable to Seller for full payment of such goods. In no event are parts ordered on a PO returnable for reason's other than mutually agreed quality issues. Quantities ordered on the PO are the sole responsibility of the buyer and will not be accepted for refunds.

## 5. TAXES

Prices shown do not include sales or other taxes imposed on the sale of goods. Any and all federal, state and local use, sales or similar taxes now or hereafter imposed upon sales or shipments will be added to the purchase price. Purchaser agrees to reimburse Seller and/or pay for any such taxes or provide Seller with an acceptable tax exemption certificate.

## 6. DELAY IN DELIVERY

In the event that delays, strikes, or other causes not within the control of Seller force postponement or delays, delivery dates or appointments will be appropriately adjusted and additional costs incurred by Seller, if any, will be reasonably determined and added to the contract sum. Factory shipment or delivery dates are the best estimates of us and our suppliers, and in no case shall Seller be liable for any consequential or special damage arising from any delay in delivery.

## 7. WARRANTY

Seller warrants that the goods shall be free from defects in material and workmanship. This warranty shall not apply in the event of defects caused by: (i) physical abuse of the goods or any component or acts of vandalism by any persons other than Seller and/or its employees; (ii) alterations, modifications, additions, or repairs made during the applicable warranty period by anyone other than Seller and/or its employees; or (iii) accidents or damage resulting from fire, water, wind, hail, lightning, electrical surge or failure, earthquake, theft or similar causes not caused or contributed to by the sole negligence of Seller or its employees. THE WARRANTIES IN THIS CONTRACT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SAID WARRANTIES BEING EXPRESSLY DISCLAIMED.

## 8. LIMITATION OF LIABILITY

Seller shall be given reasonable and prompt opportunity to examine any claim of defect by the Purchaser. Purchaser agrees that its sole and exclusive remedy against the Seller shall be limited to either repair or replacement of the goods or a refund of the purchase price at Seller's option. In addition, claims for shortages, other than loss in transit, must be made in writing not more than five (5) days after receipt of shipment. SELLER SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY RESULTING FROM DELAY IN DELIVERY OR INSTALLATION OF THE GOODS OR FOR ANY FAILURE TO PERFORM WHICH IS DUE TO CIRCUMSTANCES BEYOND ITS CONTROL.



THE MAXIMUM LIABILITY, IF ANY, OF SELLER FOR ALL DAMAGES, INCLUDING WITHOUT LIMITATION CONTRACT DAMAGES AND DAMAGES FOR INJURIES TO PERSONS OR PROPERTY, WHETHER ARISING FROM SELLER'S BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PURCHASE PRICE OF THE GOODS AT ISSUE IN THE CLAIM.

IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER FOR ANY INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST REVENUES AND PROFITS AND/OR MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY INCLUDING THIRD PARTY CLAIMS.

#### 9. COMPLIANCE WITH LAW

Purchaser shall comply with all applicable laws, regulations and ordinances. Purchaser shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Purchaser shall comply with all export and import laws of all countries involved in the sale of the goods or any resale of the goods by Purchaser. Purchaser assumes all responsibility for shipments of goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on goods.

#### 10. WAIVER

No waiver by Seller of any of the provisions of the Terms of Sale is effective unless specifically set forth in writing and signed by an authorized officer of Seller. The failure of Seller to insist upon the performance of any of the terms or conditions hereunder or to exercise any right or remedy hereunder shall not be deemed to be a waiver of such terms, conditions or rights in the future, nor shall it be deemed to be a waiver of any other term, condition, or right.

#### 11. TITLE AND RISK OF LOSS

Title and risk of loss passes to Purchaser upon delivery of the goods at EXWORKS. As collateral security for the payment of the purchase price of the goods, Purchaser hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Purchaser in, to and under the goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing.

The security interest granted under this provision constitutes a purchase money security interest under the Indiana Uniform Commercial Code (or the equivalent thereof of under any successor provision thereto).

#### 12. FORCE MAJEURE

Seller shall not be liable for delays or failures in performance of an order or default in delivery arising out of or resulting from causes beyond its control. Such causes include, but are not restricted to, acts of God, acts of Purchaser, acts of the Government or the public enemy, fire, flood, epidemics, quarantine restrictions, strikes, freight embargoes, severe weather or default of suppliers due to any of such causes. In the event of any such delay of Seller's performance, Purchaser shall honor its obligations hereunder as soon as Seller is able to perform.



### 13. COMPLETE AGREEMENT

This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. Any subsequent modification or amendment to it may be made only in a writing signed by both parties.

### 14. NO THIRD-PARTY BENEFICIARIES

This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms of Sale.

### 15. CHOICE OF LAW

This agreement is made in, and shall be construed and interpreted in accordance with the laws of the State of Indiana. All disputes involving this agreement shall be adjudicated exclusively in the Circuit Court for the County of Elkhart, State of Indiana, or the U.S. District Court for the Northern District of Indiana. Purchaser hereby acknowledges and consents to personal jurisdiction in the State of Indiana.

### 16. INTEGRATION

The contract constitutes the entire understanding between the parties with respect to the subject matter of the contract and supersedes any prior discussions, negotiations, agreements and understandings. Modifications to these Terms of Sale can be made only by a writing signed by an authorized officer of the Seller.

### 17. ASSIGNMENTS

No assignment of these Terms of Sale or of any right or obligation under these Terms of Sale shall be made by Purchaser without the prior written consent of Seller. In the event of a proper assignment, the contract shall be binding upon and inure to the benefit of the Purchaser's successors and assigns.

### 18. SEVERABILITY

If any term or provision of these Terms of Sale is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of these Terms of Sale or invalidate or render unenforceable such term or provision in any other jurisdiction.

### 19. ATTORNEYS' FEES AND COSTS

In the event of Seller's enforcement of any term or condition in the Agreement, Purchaser shall be liable to Seller for all costs, including attorneys' fees, incurred by Seller in enforcing the Agreement and in collecting any sums owed by Purchaser to Seller.



## 20. TERMINATION

Seller has the right to terminate any purchase order in whole or in part for its sole convenience, without reason or cause, by giving 90 days written notice to Purchaser. Purchaser may at any time make changes in the drawings, specifications, samples, quantities, delivery schedules, shipments, or other description as to any article, material and work covered by this Purchase Order. In such an event, an equitable adjustment shall be made by mutual agreement, reduced to writing and executed by authorized representatives of both parties. Any claim by Seller for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Seller of the notification of change.

## 21. SURVIVAL

Provisions of these Terms of Sale which by their nature should apply beyond their terms will remain in force after any termination or expiration of an individual order.