

GLOBAL TERMS AND CONDITIONS OF SALE

1. Applicability. These Global Terms and Conditions of Sale (these “**Terms**”) are the only terms that govern the sale of the goods (“**Goods**”) by the seller (“**Seller**”) and the buyer (“**Buyer**”), each of which is identified in the accompanying quotation, credit application, proposal, order acknowledgement, or invoice (the “**Sales Confirmation**”). These Terms and the Sales Confirmation comprise the entire agreement between the parties (collectively, this “**Agreement**”) and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase, regardless whether or when Buyer submitted its purchase order or such terms. Seller’s fulfillment of Buyer’s order does not constitute, and shall not be deemed to constitute, acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

2. Cancellation. Cancellation or modifications of orders are subject to Seller’s prior written consent in each instance.

3. Price. Unless otherwise set forth in the Sales Confirmation, the price of the Goods is based on the prices quoted in Seller’s product catalog. All stated prices are exclusive of any taxes, fees, duties, and levies, however designated or imposed, including but not limited to value-added and withholding taxes that are levied or based upon the amounts paid under this Agreement (collectively, “**Taxes**”). Any Taxes related to the Goods purchased pursuant to this Agreement are the responsibility of Buyer (excluding taxes based on Seller’s net income), unless Buyer presents an exemption certificate acceptable to Seller and the applicable taxing authorities. If possible, Seller will bill Taxes as a separate item on the invoice presented to Buyer. If any exemption certificate presented by Buyer is held to be invalid, then Buyer shall pay Seller

the amount of the Tax and any penalties and interest related thereto.

4. Payment; Taxes. Unless otherwise set forth in the Sales Confirmation, Buyer shall pay all invoiced amounts within thirty (30) days following the date of Seller’s invoice. Unpaid amounts shall accrue interest at a rate equal to the lesser of one and one-half percent (1.5%) per month and the maximum rate permitted by applicable law, from due date until paid, plus Seller’s reasonable costs of collection. Seller reserves all other rights granted to a seller under the Uniform Commercial Code (“**UCC**”) for Buyer’s failure to pay for the Goods or any other breach by Buyer of these Terms. In addition to all other remedies available to Seller (which Seller does not waive by the exercise of any rights hereunder), Seller may suspend the delivery of any Goods if Buyer fails to pay any amounts when due and such failure continues for five (5) days following Buyer’s receipt of notice thereof. Buyer may not withhold payment of any amounts due and payable as a set-off of any claim or dispute with Seller, regardless of whether relating to Seller’s breach, bankruptcy, or otherwise.

5. Delivery; Shipping.

(a) Seller will deliver the Goods within a reasonable time after receiving Buyer’s purchase order, subject to their availability. Seller shall not be liable for any delays, loss, or damage in transit. Unless otherwise set forth in the Sales Confirmation, Seller shall deliver the Goods, EX WORKS (Incoterms® 2010) at the location specified in the Sales Confirmation (the “**Delivery Location**”), using Seller’s standard methods for packaging and shipping same. Buyer shall take delivery of the Goods within three (3) days of Seller’s notice that the Goods have been delivered to the Delivery Location. If Buyer fails to take delivery of the Goods within this three (3) day period Buyer shall pay Seller for the Goods and all storage expenses incurred

by Seller. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

(b) The quantity of any installment of the Goods, as recorded by Seller on the dispatch from Seller's place of business, is conclusive evidence of the quantity received by Buyer upon delivery, unless Buyer provides conclusive evidence to the contrary. Seller shall not be liable for any non-delivery of the Goods to the Delivery Location, unless Buyer gives written notice to Seller of such non-delivery within five (5) days following the date that Buyer would, in the ordinary course of business, have received the Goods. Seller's liability for any non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

6. Title; Risk Of Loss.

(a) Title passes to Buyer upon delivery of the Goods at the Delivery Location. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on, and security interest in, and to all of the right, title, and interest of Buyer 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 Uniform Commercial Code as adopted in the State of Texas.

(b) Risk of loss or damage to the Goods passes to Buyer in accordance with the applicable Incoterm. If Buyer fails to accept delivery of any of the Goods on the date set forth in Seller's notice that Seller has delivered the Goods to

the Delivery Location, or if Seller is unable to deliver the Goods to the Delivery Location on such date because Buyer has failed to provide appropriate instructions, documents, licenses, or authorizations, then: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered to Buyer; and (iii) Seller, at its option, may store the Goods until Buyer takes possession of them, at which time Buyer shall be liable for all costs and expenses resulting from such failure (including but not limited to the cost of storage and insurance).

7. Inspection; Rejection of Goods.

(a) As used in this Section 7, "**Nonconforming Goods**" means only the following: (i) the items shipped are different from those identified in Buyer's purchase order; or (ii) the labels or packaging of the items incorrectly identifies them. Buyer shall inspect the Goods within five (5) days following receipt thereof (the "**Inspection Period**"). If, prior to the end of the Inspection Period, Buyer fails to notify Seller in writing of any Nonconforming Goods and to furnish Seller such written evidence or other documentation as reasonably required by Seller, then Buyer will be deemed to have accepted the Goods.

(b) If Buyer timely and properly notifies Seller of any Nonconforming Goods, then Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods or (ii) credit or refund the purchase price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at Seller's expense and risk of loss, the Nonconforming Goods to the Delivery Location. If Seller exercises its option to replace Nonconforming Goods, then after receiving Buyer's shipment of Nonconforming Goods pursuant to Seller's instructions, Seller shall, at Seller's expense and risk of loss, deliver the replaced Goods to the Delivery Location.

(c) Buyer acknowledges and agrees that the

remedies set forth in this Section 7 are Buyer's exclusive remedies for the delivery of Nonconforming Goods, and except as set forth in this Section 7, Buyer has no right to return the Goods to Seller without Seller's written authorization

8. Limited Warranty.

(a) Unless otherwise set forth in the Sales Confirmation, Seller warrants to Buyer, for a period of three (3) years following the date of sale (the "**Warranty Period**"), that the Goods will be free from defects in material and workmanship. Select Goods offer warranty periods greater or less than three (3) years. Reference the Goods specific warranty details for these selected Goods. Notwithstanding the foregoing, the Warranty Period for consumable Goods shall in no event exceed recommended replacement intervals set forth in the Instructions (hereinafter defined). If, prior to the expiration of the Warranty Period, Buyer informs Seller in writing of any breach of this limited warranty, then Seller may repair or replace the Goods that gave rise to such breach or, in Seller's sole and exclusive discretion, refund the amounts that Buyer paid for such Goods.

(b) The foregoing limited warranties do not apply to (i) any defect in Goods not manufactured by Seller; and (ii) any Goods manufactured according to Buyer's specifications.

(c) Buyer shall bear the costs of access, de-installation, re-installation and transportation of the Goods to Seller and back to Buyer. Any repair or replacement pursuant to this limited warranty shall not extend the Warranty Period. Seller does not warrant the Goods, or any repaired or replacement parts, against normal wear and tear. This limited warranty and remedy are expressly conditioned upon: (i) Buyer's payment of the purchase price in full, (ii) Buyer giving written notice of the defect, reasonably described, to Seller within ten (10) days of the time when Buyer discovers or ought

to have discovered the defect, (iii) the storage, installation, operation, use, and maintenance of the Goods in compliance with the published specifications and instructions provided by Seller or its suppliers or subcontractors (the "**Instructions**"), (iv) the existence of proper records of Buyer's operation and maintenance of the Goods during the Warranty Period, (v) Buyer providing Seller with a reasonable opportunity to examine the Goods and the aforementioned records, and (vi) the absence of any unauthorized modification or repair of the Goods.

(d) Before any test may be used to evaluate the Goods, Buyer shall: (i) provide Seller with reasonable written notification of such test, (ii) allow Seller to be present during such test, and (iii) receive Seller's consent to the conditions of such test, which consent will not be unreasonably withheld. If a test is performed on the Goods, and Seller has not consented to the conditions of such test, then this limited warranty shall be void.

(e) THE REMEDIES SET FORTH IN THIS SECTION 8 ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY FAILURE OF SELLER TO COMPLY WITH ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS SECTION 8. Correcting any defect in the manner set forth in this Section 8 shall constitute complete fulfillment of Seller's obligations and liabilities under the Agreement following the delivery of the Goods, regardless of whether a claim is based in contract law, tort law (including negligence, strict liability or otherwise), or other legal theory. THE LIMITED WARRANTY SET FORTH IN THIS SECTION 8 IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS, OR IMPLIED. EXCEPT AS SET FORTH IN THIS SECTION 8, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING FROM COURSE OF

DEALING OR USAGE OF TRADE. Any other oral or written statements, whether contained in general advertising or other printed material, do not constitute warranties, and Buyer agrees that it is not entering into the Agreement in reliance upon any such statements.

9. Indemnification. Buyer shall defend, indemnify, and hold harmless Seller and its parent company, their respective subsidiaries, affiliates, successors, and assigns and their respective directors, officers, shareholders, and employees from and against any loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost, fees (including import and export customs fees), or expense (including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers) arising out of or occurring in connection with the negligence or willful misconduct of Buyer or its employees or agents, including but not limited to: (i) any misuse or modification of the Goods by Buyer or its employees or agents, (ii) any act (or failure to act) by Buyer or its employees or agents in contravention of any safety procedures or instructions that Seller provides to Buyer or its employees or agents, or (iii) the failure to store, install, operate, or maintain the Goods in accordance with the Instructions.

10. Infringement.

(a) Seller will defend, at its own expense, any action against Buyer brought by a third party to the extent that the action is based upon a claim that the Goods infringe any U.S. patents or copyrights, or misappropriate any trade secrets, of a third party. Seller will pay those costs and damages finally awarded against Buyer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action.

(b) The foregoing obligations are conditioned on Buyer (i) notifying Seller promptly in writing of such action, (ii) making no admission of

liability and giving Seller sole control of the defense thereof and any related settlement negotiations, and (iii) cooperating and, at Seller's request and expense, assisting in such defense.

(c) If the Goods become, or in Seller's opinion are likely to become, the subject of an infringement claim, Seller may, at its option and expense, either (i) procure for Buyer the right to continue using such Goods, (ii) replace or modify such Goods so that they become non-infringing, or (iii) accept return of such Goods and refund Buyer the amounts actually paid by Buyer to Seller for such Goods.

(d) Notwithstanding the foregoing, Seller will have no obligation under this Section 10 or otherwise with respect to any infringement claim based upon any: (i) misuse or modification of the Goods by Buyer or its employees or agents, (ii) use of the Goods in combination with other materials, goods, products, or services for which the Good were not intended to be used, (iii) failure of Buyer to implement any update provided by Seller that would have prevented the claim, (iv) Goods that Seller made to Buyer's specifications or designs.

(e) THIS SECTION 10 STATES SELLER'S ENTIRE LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND ACTIONS.

11. Limitation of Liability.

(a) IN NO EVENT WILL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE OR UNDER-UTILIZATION OF LABOR OR FACILITIES, LOSS OF REVENUE OR ANTICIPATED PROFITS, LOST DATA, AND COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S TOTAL LIABILITY FOR ALL CLAIMS ARISING OUT OF, OR RELATING TO,

THE GOODS SHALL BE LIMITED TO GENERAL MONEY DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL PURCHASE PRICE FOR THE GOODS GIVING RISE TO THE CLAIM.

(b) The limitation of liability set forth in this Section 11 shall not apply to: (i) liability resulting from Seller's negligence or willful misconduct or (ii) death or bodily injury resulting from Seller's acts or omissions.

12. Design Changes. Seller reserves the right to alter, modify, or redesign its products without any obligation to replace previous shipments to Buyer.

13. No License. The sale of the Goods shall not confer upon Buyer any license, express or implied, under any patents, trademarks, trade names, or other proprietary rights owned or controlled by Seller, its subsidiaries, affiliates, or suppliers; it being specifically understood and agreed that all such rights are reserved to Seller, its subsidiaries, affiliates, or suppliers. Without limiting the foregoing, Buyer will not, without Seller's prior written consent, use any trademark or trade name of Seller in connection with any the Goods, other than with respect to the resale of the Goods pre-marked or packaged by or on behalf of Seller.

14. Termination. In addition to any other remedies that Seller may have, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for five (5) days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

15. Confidentiality. All non-public, confidential, or proprietary information of

Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, that Seller discloses to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and regardless of whether marked, designated, or otherwise identified as "confidential," in connection with the Agreement is confidential, solely for the use of performing the Agreement, and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section 15, without having to post bond or establish the insufficiency of a remedy at law. This Section 15 does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Seller on a non-confidential basis from a third party.

16. Force Majeure. Seller shall not be liable for any failures or delays caused by strikes, differences with workers, or any causes beyond the reasonable control of Seller, including but not limited to fires, floods, accidents, action of any governmental authority, war, insurrection or riots, or shortages of labor, energy, raw materials, production facilities, or transportation. Where delays or failures are caused by labor difficulties, Seller shall not be obligated to seek or obtain any settlement that, in Seller's sole judgment, is not in Seller's best interest.

17. Compliance. Each party shall comply with all applicable laws, regulations, and ordinances. Without limiting the foregoing, in no event shall Buyer take any action(s) contrary to the export and import laws and regulations in effect as of the date of shipment of the Goods of any country involved in the transactions contemplated by the Agreement.

18. Governing Law and Jurisdiction.

(a) If both parties are US residents, exclusive jurisdiction and venue for any action, suit, or proceeding concerning the Agreement or other documents related thereto shall be governed, enforced, and construed in accordance with the internal laws of the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Texas. Any legal suit, action, or proceeding arising out of or relating to the Sales Confirmation, these Terms, or the documents related thereto shall be instituted in the United States District Court for the Northern District of Texas, Dallas Division, or the courts of the State of Texas serving the City of Richardson and County of Collin. Each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Each party waives its rights to a jury trial of any claim or cause of action based upon, or arising out of, the Order, these Terms, or the documents related thereto, or their respective subject matter.

(b) If neither party is a Chinese entity and Seller is not a U.S. entity, then any controversy or claim arising out of or relating to this Agreement including, but not limited to, its breach, existence, validity, legality, enforceability, interpretation, performance, nullity, termination or expiration, (a “**Controversy**”) will be settled by binding arbitration; and notwithstanding its place of execution or performance, this Agreement will be governed by, and construed under and in accordance with, the Laws of the State of New York, USA, irrespective of any laws regarding choice or conflict of laws that direct the application of the laws of another jurisdiction. The place of arbitration will be New York, New York, under the rules prescribed by the International Centre for Dispute Resolution (“**ICDR**”) in accordance with its ICDR Rules. Unless the parties agree to a single arbitrator, the arbitration will be heard and determined by

three arbitrators, who will be appointed pursuant to the ICDR Rules. The arbitration proceedings will be conducted in the English language. The award will be rendered in writing with the reasons detailed. The award may be in the nature of money damages, injunctive relief, or specific performance as decided by the arbitrator. Either party may initiate arbitration by notifying the other in writing. The arbitrator’s ruling and award from such arbitration is final; the parties consent to judgment upon the award; and the award may be entered in any court of competent jurisdiction.

(c) If either party is a Chinese entity, the laws of China govern this Agreement, irrespective of any laws regarding choice or conflict of laws that direct the application of the laws of another jurisdiction. The Controversy will be submitted to the China International Economic and Trade Arbitration Commission in Shanghai (“**CIETAC**”) for final resolution by arbitration in accordance with the rules and procedures of CIETAC. The CIETAC tribunal will consist of three (3) arbitrators. The parties will at all times comply with, and observe all requirements and rulings of, CIETAC made in relation to any Controversy submitted to CIETAC for resolution. Submission of evidentiary documents may be in copies without the need of notarization unless specifically ordered by the CIETAC tribunal. Any interim decisions or orders by the CIETAC tribunal will be binding, and sanctions may be given on failures of any party in implementing such interim decision or order. Any award or determination by the CIETAC tribunal is final and binding on both parties. The arbitration proceedings will be conducted in the English language. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Agreement or the documents related thereto.

19. Choice of Language. It is by the express intention of the parties hereto that the present Agreement and all its related documents be drafted in English. *Il est de l’intention expresse des parties à la présente Convention*

(connaissance, bon de commande, bon de conditionnement ou facture) et tout document s'y rattachant soient écrit en langue anglaise.

20. Survival. In addition to any other term whose context may so require, the terms contained in Sections 1, 4, 6, 7, 8, 9, 10, 11, 15, 18, 19, 20, and 21 will survive any cancellation of the Sales Confirmation.

21. Miscellaneous. Buyer acknowledges that is has not been induced to purchase any the Goods from Seller by any representation or warranty not expressly set forth in this Agreement. These Terms and the Sales Confirmation constitute the entire agreement of the parties and supersede all existing agreements and all other oral or written communications between them concerning its subject matter. None of the Terms may be added to, modified, superseded, or otherwise altered, except by a written document signed by an authorized representative of Seller that specifically references these Terms and states that it modifies them. If there is a conflict between the provisions of the Sales Confirmation and these Terms, then the terms of the Sales Confirmation shall govern. No waiver by Seller of any of the provisions of these Terms is effective unless explicitly set forth in writing that specifically references these Terms and is signed by Seller. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from these Terms operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The Section headings contained in these Terms are intended for convenience of reference only and shall not affect the interpretation of any provision. If any provision of this Agreement is held to be prohibited or unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force

and effect. Buyer may not assign this Agreement or any quotation or order for the Goods, in whole or in part, without Seller's prior written consent.