

CLASS 1 INCORPORATED TERMS AND CONDITIONS OF SALE

1. GENERAL

As used herein, "Supplier" means Class 1 Incorporated. "Purchaser" means the entity purchasing the Products or Services from Supplier. "Products" as used herein includes any equipment, machine, part, accessory, system, item and/or service sold by Supplier to Purchaser. "Services" as used herein includes any and all repairs, installations, start up, preventive maintenance, performance verification, calibration, training and/or other service performed offered or performed by Supplier for Purchaser. All bids, quotations, acknowledgements, offers, and sales by Supplier are subject to and expressly conditioned upon these Terms and Conditions of Sale. Supplier' sale of any Products/Services is expressly conditioned on Purchaser's assent to these Terms and Conditions of Sale. Any acceptance of Supplier' offer is expressly limited to acceptance of these Terms and Conditions of Sale. Any terms or conditions (previously, contemporaneously, or hereafter) provided by Purchaser which add to, vary from, or conflict with these Terms and Conditions of Sale are hereby expressly objected to and rejected. Where terms and conditions of sale between Purchaser and Supplier are conflicting or inconsistent, Supplier Terms and Conditions shall prevail.

2. CREDIT, PRICES AND TAXES

a) **Credit.** A Purchaser credit account cannot be opened by the Supplier until receipt, by the Supplier's Credit Department (the "Credit Department"), of a signed Credit Application. The Purchaser agrees that on-going credit approval to the satisfaction of the Supplier shall be a continuous pre-condition of sale of any Products. The Purchaser will provide to the Supplier, upon request, all relevant and current information allowing Supplier to evaluate the financial situation or any relevant matter regarding the Purchaser's business background and debt, including but not limited to, its annual or interim financial statements, credit reports and legal suits. The Supplier may, at its sole discretion, in the event of insufficient credit worthiness, freeze the Purchaser's account, stop all shipments and sale of Products to the Purchaser, or even terminate the Contract. Purchaser requested holdback shall not apply unless agreed by the Supplier in writing.

b) **Prices.** All quoted prices are Ex Works Supplier's plant. Unless Purchaser instructs Supplier otherwise, Supplier will select a carrier and arrange shipment, and appropriate freight, packing and related charges will be added to the invoice. Except as expressly set forth on the face hereof, prices do not include customs duties or sales, use, excise or other taxes. All such taxes and all personal property taxes assessable on the Products after delivery to carrier shall be paid by the Purchaser.

c) **Tariffs.** Pricing may be adjusted by Supplier due to market conditions/cost escalations of any third-party component or raw material used in products.

i) **Base Price (Excluding Tariffs):** The quoted price for the systems (product) is provided exclusive of any tariffs, duties, or import taxes that may be applicable at time of production release.

ii) **Tariff Impact Adder:** In the event that tariffs, duties, or import taxes are imposed or increased after the date of this quotation, an additional charge may be applied to cover the increased costs. This adder will be calculated based on the applicable tariffs at the time the Purchaser releases the order for production and will reflect the exact cost from our sub-supplier, without any extra fees or margins added by Supplier.

The final price will be adjusted to reflect any changes in tariffs, duties, or import taxes that occur between the date of this quotation and the date of production release. Any such adjustments will be communicated in writing to the Purchaser.

3. TERMS AND METHOD OF PAYMENT

The terms of payment for Products are net thirty (30) days from the date of the Supplier's invoices and services are due upon receipt, unless different terms have been agreed to in writing in a separate agreement by the Parties. All invoices shall be paid in full and Purchaser shall not be entitled to deduct, set-off or to withhold payment. Any invoice not paid by the due date will be considered outstanding and a late charge will be payable by the Purchaser on the outstanding amount from the due date until the payment of the total amount due to the Supplier, which shall be calculated as the lesser of: (i) one percent (1%) per month (twelve percent (12%) annually); or (ii) the highest interest rate permitted by law. The Supplier may at its sole discretion opt to not charge any charges for late payment.

4. DELIVERY AND RISK OF LOSS

Times between order and delivery of Products may vary. Supplier shall not be responsible for any loss or liability suffered by Purchaser as a result of failure or delay in the delivery of Products. If Supplier obtains insurance, Supplier shall in its sole discretion determine the insurance carrier and the packaging for the Products. Risk of loss or damage to the Products shall pass to Purchaser on delivery by Supplier to a common carrier for shipment. Purchaser shall reimburse Supplier for any insurance obtained covering risks involved in transporting Products to Purchaser, but Supplier is not required to obtain such insurance.

5. ACCEPTANCE

Purchaser shall inspect Products promptly upon receipt at the shipping destination and shall report shipping damage immediately to the shipping company and Supplier. Purchaser may reject any Product which fails in any significant respect to meet Supplier's specifications as set forth in Supplier's most recent Product literature. Purchaser is deemed to have accepted the Products if Purchaser does not reject the non-conforming Products in writing to Supplier and requesting an RMA within ten (10) days of Product delivery. Rejected Products shall be returned freight prepaid to Supplier within ten (10) days of receiving Supplier' approval to return the products. Supplier shall, at its option and expense, either repair or replace properly rejected Products.

6. RETURNS

All returns are subject to approval by the Supplier in writing in Supplier's sole discretion. If Supplier agrees that Purchaser may return the Products, Supplier will issue a "Returned Goods Authorization" ("RGA") number to Purchaser, and Purchaser must include such RGA number with the return. Returns of Specialty or Manufactured Products are not permitted. All Products must be returned to Supplier in their original unopened and undamaged packaging. Supplier has a right to accept or refuse any returned Products at its sole discretion, without giving the notice of its decision to the Purchaser. The shipping expenses, re-stocking charges and fees for the return of any Products may be charged to Purchaser depending on the reason for return.

7. WARRANTY

Warranty is detailed in the separate product literature, which is incorporated herein by reference.

8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING ELSE, THE TOTAL LIABILITY, IN THE AGGREGATE, OF SUPPLIER ARISING OUT OF, RELATED TO, OR RESULTING FROM THE ORDER OR CONTRACT OR THE PERFORMANCE OR BREACH THEREOF, OR THE DESIGN, MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT, INSTALLATION, TECHNICAL DIRECTION OF INSTALLATION, INSPECTION, SERVICE, OPERATION OR USE OF ANY PRODUCT OR SERVICE SHALL BE LIMITED TO THE ACTUAL PURCHASE PRICE AMOUNT PAID BY PURCHASER TO SUPPLIER FOR THE SPECIFIC PRODUCTS/SERVICES GIVING RISE TO THE CLAIM (REGARDLESS OF WHETHER DAMAGES ARE CHARACTERIZED AS ARISING OUT OF BREACH OF WARRANTY, TORT, CONTRACT, OR OTHERWISE).

9. NO CONSEQUENTIAL DAMAGES.

NOTWITHSTANDING ANYTHING ELSE, UNDER NO CIRCUMSTANCES SHALL SUPPLIER BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUE, LOSS OF TOTAL OR PARTIAL USE OF THE PRODUCTS OR SERVICES, DOWNTIME COSTS, AND DELAY COST OR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE AND EVEN IF ANY OF THE LIMITED REMEDIES IN THIS CONTRACT FAIL IN THEIR ESSENTIAL PURPOSE (REGARDLESS OF WHETHER DAMAGES ARE CHARACTERIZED AS ARISING OUT OF BREACH OF WARRANTY, TORT, CONTRACT, OR OTHERWISE).

10. PATENT INDEMNITY

Supplier shall defend or settle, at its own expense, any suit or proceeding against Purchaser in a United States court for direct infringement by the Products of any duly issued U.S. or Canadian patent. Supplier shall pay all damages and costs, not exceeding the total purchase price of such Products, finally awarded against Purchaser in any such suit or proceeding because of direct infringement. Supplier's obligations under this section are conditioned on Supplier receiving (a) prompt notice from Purchaser of commencement of any suit or proceeding or any claim of infringement, (b) copies of all written communications relating to such suit or proceeding or claim of infringement and (c) full assistance, information, cooperation and authority from Purchaser with respect to the defense or settlement of same. Supplier shall not be bound by any settlement made without Supplier's prior written consent.

Supplier shall have no obligations or liability pursuant to this section or otherwise in connection with any actual or alleged patent infringement based on (i) use of any Products in combination with any product, part or accessory not manufactured by Supplier, (ii) use of any Product in a manner not recommended by Supplier or for which it was not designed, (iii) any Product that has been altered or modified in any way by anyone other than an employee or agent of Supplier, or (iv) any Product manufactured in accordance with specifications supplied by Purchaser or any party other than Supplier. This section states Supplier's sole and exclusive liability for any claim of any third party by way of infringement or the like.

11. PRODUCT MARKINGS

Purchaser shall not remove or alter any tags, labels or identifying markings placed by Supplier on any Products or their packaging.

12. EXCUSABLE DELAYS

If the performance of any obligation, except for payment of monies due, is prevented, restricted or interfered with by reason of any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the party to whom performance is due, shall be excused from such performance to the extent of such prevention, restriction, or interference.

13. CANCELLATION/CHANGES

Any changes, deviations or request for cancellation required by the Purchaser as to any Products after Supplier's acceptance of Purchaser's order must be approved in writing by Supplier. Supplier reserves the right to accept or reject requests for changes or deviations in its sole reasonable discretion. The Supplier's determination of its acceptance of any cancellations shall be pre-conditioned on the Purchaser sending a written notice to the Supplier, requesting the cancellation and detailing with specific accuracy the reasons for any said request, as soon as the circumstances arise giving reasons for such request of cancellation. Upon Supplier's acceptance of the notice of cancellation, Purchaser shall pay Supplier's cancellation charges below, unless a different schedule is specified in the purchase order:

Standard Products – equipment or parts available for shipment from Supplier. Cancellation fee of 25% of the price shall apply.

Specialty or Engineered Products – equipment or parts requiring customization performed by Supplier. Cancellation fee is as follows:

- During document submittal stage: 10% of the price
- After submittals have been approved and before start of manufacturing: 20% of the total price
- After manufacturing has begun: Cancellation not permitted

14. REMOTE MONITORING

The Purchaser acknowledges that the equipment may contain remote data monitoring service. The collected data may be used by Supplier and other trusted parties for the purpose of increasing overall customer service. Supplier and these trusted parties will not disclose collected data to other third parties unless authorized by law. Supplier will make commercially reasonable efforts to protect such data. Purchaser acknowledges that the use of this monitoring service is provided "as is", that use of the service is entirely at Purchaser's risk. Supplier and Purchaser, and that Supplier may discontinue the service at any time. Purchaser may request discontinuance of the remote data monitoring service at any time.

15. MISCELLANEOUS

Governing Laws and Jurisdiction. For the perfection of any security interest over the Products sold to the Purchaser by Supplier, the applicable law governing security interest of the province where the Products are located shall apply. Otherwise, the interpretation, validity and performance of the Terms and Contract must be governed by and interpreted in accordance with the laws of the Province of Ontario, without taking into account conflict of laws rules. All disputes arising out of or in connection with these Terms, or in respect of any legal relationship associated with or derived from these Terms, will be finally resolved by arbitration under the Arbitration Rules of the ADR Institute of Canada, Inc. The seat of arbitration will be Toronto.

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