

Buyer agrees to the terms and conditions set forth here-in. Upon presentation of a purchase order to the seller, buyer acknowledges that buyer has read and understands the terms and conditions of this agreement including without limitation the warranty disclaimers and limitations and limitation of liability set forth in section A.8 and the court jurisdiction provisions set forth in section C. 4, respectively, and understands that the agreement creates in favor of seller a security interest in the property.

This Agreement shall not be binding upon Seller until a purchase order is placed by the buyer to the seller. **NO REPRESENTATION OR WARRANTY RELATING TO THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT IS BINDING ON OR ENFORCEABLE AGAINST SELLER UNLESS SET FORTH IN THIS AGREEMENT.**

**A. TERMS AND CONDITIONS OF SALE**

1. **Price and Price Adjustments** The cash purchase price of the Property is FOB point of shipment from within the United States as designated by Seller and is firm for thirty (30) Days after the date of execution of this Agreement by Seller. After such period Seller may in its discretion, adjust the purchase price of any unshipped Property to reflect cost increases and changes in market conditions. Seller will give Buyer written notice of any such price adjustments. Unless within (7) days after giving such notice Buyer gives Seller written notice of any objections to any such price adjustment, Buyer will be deemed to have waived all such objections.
2. **Taxes** The cash purchase price of the Property is exclusive of any and all excise, sales, use or other taxes levied by any federal, state, county, municipal or other government authorities, all of which are for the account of Buyer. Seller is authorized to make payment of any such taxes directly to taxing authority, and Buyer will reimburse Seller therefor. Such reimbursement will be made on and unless otherwise expressly agreed in writing. If Buyer claims exemption from such taxes, Buyer must provide evidence of exemption acceptable to Seller.

3. **Freight Charges.** Freight charges for shipment of the Property to Buyer, including taxes on freight charges, if any are the account of Buyer and will be billed freight collect. Freight charges for tooling and accessories will be separately invoiced to Buyer and are payable net 30 days from the date of invoice unless otherwise agreed in writing.
4. **Shipping instructions.** Seller will arrange for shipment and routing of the Property in accordance with the instructions of Buyer (if any) set forth on the purchase order provided however, if such instructions are unclear, incomplete, or impractical of implementation, or if no shipping instructions are made forth on the purchase order, Seller may, and is hereby authorized by Buyer to arrange shipment and routing of the Property as Seller deems appropriate. In no event will Seller be liable for failure of the carrier to follow shipping instructions of either Buyer or Seller. Charges will be billed freight collect.
5. **Shipment.** Seller may ship the Property in partial shipments unless otherwise documented. Seller will use reasonable commercial efforts to deliver date, set forth on the facing page hereof, but will have no liability to Buyer for late shipments.
6. **Title, Risk of Loss and Insurance.** Title to and all risk of loss of or damage to the Property will pass from Seller to Buyer at the shipping point. Invoice terms of payment will begin at the shipping point and date. Unless otherwise expressly agreed in writing, the cost of insurance on the Property while in transit will be borne by Buyer.
7. **Warranty and Limitation of Liability.** EXCEPT AS MAY OTHERWISE BE SET FORTH IN WRITTEN WARRANTY OF THE PROPERTY EXECUTED BY SELLER, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WRITTEN OR ORAL, AND HEREBY EXPRESSLY DISCLAIMS ALL SUCH WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY FOR FITNESS FOR A PARTICULAR USE OR PURPOSE IN NO EVENT SHALL SELLER BE LIABLE FOR ANY

INCIDENTAL, SPECIAL, GENERAL, DIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS) AND IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE STATED PURCHASE PRICE OF THE PROPERTY.

8. **Force Majeure.** In the event that Seller or any of its suppliers or delegates is unable to carry out Seller's obligations hereunder to acts of God or of the public enemy, war, insurrection, riots, strikes, lockouts, labor disputes, fires, earthquakes, natural disasters, unavoidable causality, freight embargos, shortages of labor or materials, changes in government policy, laws or regulations including but not limited to money exchange or transfer restrictions., impositions of quotas or limitation (shipments), or any other cause or causes beyond the control of Seller or its suppliers or delegates whether specified or not specified above, Seller may extend the time of performance of its obligations to such extent as may be necessary to enable Seller and its suppliers and delegates to complete performance with the exercise reasonable diligence after the cause or causes of delay have been removed. In the event any such delay continues for a period of more than six (6) months, either party may terminate its obligations hereunder by so notifying the other party in writing.
9. **Termination.** Upon the occurrence of an Event of Default (as defined in Section B.2), Seller will in addition to the other rights set forth in this Agreement, have the right to immediately terminate this agreement as to any un-shipped Property with or without notice of termination.
10. **Indemnification.** Buyer, will defend, indemnify and hold Seller harmless from, and against any ill claims, liabilities, damages, costs and expenses (including reasonable attorney's fees) arising out or in connection with any use of the Property by Buyer or any breach of this Agreement by Buyer.

## **B. SECURITY INTERESTS**

1. **Grant of Security Interest.** To secure payment of the purchase price of the Property, Buyer hereby grants to Seller security interest in the Property 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 hereby constitutes a purchase money security interest granted under the Connecticut Uniform Commercial Codes. In addition, the security interest granted hereby shall secure the full and faithful performance by Buyer and all of Buyer's obligations under this Agreement. Notwithstanding the foregoing, the provisions of this Part B do not apply with the respect to COD sales of Property for which payment is actually received by Seller from Buyer prior to or at the time of delivery of the Property to Buyer's facility.

2. **Default.** The occurrence of any of the following shall constitute an Event of Default: (a) any failure by Buyer in the payment, when due or payable of the purchase price of the Property or any installment thereof or interest hereon; (b) any breach of Buyer of any representation, warranty, covenant or agreement (other than as to payment set forth in this Agreement or any other agreement between buyer and Seller or arising by operation of law or otherwise, which breach is not cured by the ninth (9<sup>th</sup>) day following notice thereof by Seller to Buyer (c) the issuance or entry of any judgment, injunction or attachment against Buyer, the Property or any other property of Buyer, (d) the giving of any notice of bulk sale or intended bulk sale by Buyer (e) the appointment of a receiver or committee or creditors or liquidating agents, the offering of a composition or extension to creditors, the making of an assignment for the benefit of creditors of the commencement of any proceeding, suit or action for reorganization, dissolution, or liquidation under any bankruptcy or other laws relating to the relief of debtors, to the extent that any of the foregoing is by, for, on behalf of or with respect to Buyer (l) the insolvency of Buyer, the suspension, termination, discharge or unenforceability of any guaranty executed in favor of Seller with respect to any of the obligations secured hereby; or (h) any change in the condition or affairs (financial or otherwise ) of Buyer which in the good faith determination of Seller impairs Seller's security or increase its risk.
3. **Remedies on Default.** Upon the occurrence of an Event of Default, or any time thereafter if such Event of Default shall be continuing, in addition to any other rights or remedies Seller may have, Seller shall have any of all of the following rights and remedies; (a) Seller may at its option, accelerate and declare all of the indebtedness secured hereby to immediately due and payable (c) Seller shall have the right to take immediate and exclusive possession of any and all Property, wherever located, without interference from Buyer and for this purpose Seller

may, with or without judicial process and with or without prior notice, enter peacefully upon the premises where such Property and make it available to Seller at any mutually convenient location reasonably selected by Seller;(e) Seller may, in its sole discretion, any time and from time to time, but only after Seller has given Buyer at least (10) days prior written notice of its intention to dispose of the Property, which is hereby agreed to be reasonable notice, lease any of the Property on such terms and in such manner as Seller may consider appropriate, or sell, resell, transit, assign, dispose of and deliver any or all of therein, at public or private sale, for case, upon credit or for future delivery, and at such price or prices as Seller may determine;(f) in connection with any disposition for and purchase any or all of the Property and by such purchase acquire all right, title and interest therein;(g) Seller may, for itself and for and on behalf of Buyer, make and deliver to any purchaser of any of the Property a good and sufficient bill of sale or other evidence of transfer of all right, title and interest in and to such Property to such purchase, and (h) Seller may in its own name or in the name of and on behalf of Buyer, take and all actions required to cure any such Event of Default, and all sums expended by Seller in effecting such cure shall be secured hereby.

4. **Application of Proceeds.** The net proceeds realized upon any liquidation or disposition of the Property, after deduction for the expense of retaking, holding, preparing for sale or lease, selling, leasing and the like, and the reasonable attorney's fees and legal expenses and costs incurred by Seller in enforcing or exercising any of its rights or remedies under this Agreement, shall be applied in satisfaction of the obligations of Buyer secured under this Agreement in such order as may deemed appropriate by Seller. Any surplus of such proceeds shall be paid to the person or persons legally entitled thereof, and the Buyer shall be liable to Seller for and shall immediately pay to Seller the amount due at delivery.
5. **Buyer's Waive.** Except as to the notice to dispose of Property provided for herein, Seller may exercise any of its rights and remedies without demand, advertisement or notice other lien as may be required by law. To the fullest extent permitted by law, Buyer waives demand notice of expectance of this Agreement or other action taken in reliance hereon an all other demands and notices of any descriptions.

6. **Financing Statements.** Fixture filings and further assurances. Buyer hereby authorizes Seller to execute and file financing statements authenticated records, and fixture filings at any time with respect to any of the Property, in each case without Buyer's signature to the extent permitted by law. All statements or other filings pursuant to the Uniform Commercial Code in form satisfactory to Seller, granted hereunder, or to fully assure to Seller its rights under this Agreement.

### C. **MISCELLANEOUS**

1. The order of application of Buyer payment is at the discretion of Seller. Seller may at its discretion apply and all of a Buyer's payment to any outstanding balances owing by Seller including, but not limited to Buyer late charges.
2. **Notices** All notices, demands or consents required or permitted to be given under this Agreement shall be in writing and shall be deemed effective upon delivery if delivered personally or five (5) days after mailing if sent by first class United States mail, postage prepaid, addressed to the appropriate address set forth herein or to such other address as shall be given by either party to the other in writing.
3. **Waiver, Amendment or Modification** No waiver, amendment or modification of any provision hereof or of any right or remedy hereunder shall be effective unless in writing and signed by the party to be bound. No failure by Seller to exercise, and no delay by Seller in exercising, any right, power or any right or remedy by Seller on any one occasion, shall not be construed as a bar to or waiver of any right or remedy on any future occasion. All rights and remedies of Seller are separate and cumulative and the exercise of any right or remedy shall not limit or prejudice the exercise of any other right or remedy.
4. **Court Jurisdiction** Any controversy, claim, action, or dispute arising out of or relating to this agreement will be subject to the laws of the State of Connecticut and the parties hereof agree to these matters being adjudicated in the jurisdiction of Connecticut.
5. **Attorney's Fees** In the event any arbitration or judicial action or proceeding is initiated with respect to any matters relating to this Agreement or in the event either party seeks relief from the automatic stay of 11 U.S.C. Section 362(or any successor statute thereof), then the party in whose favor any arbitration award

shall be given or any relief shall be granted or judgment shall be entered shall be entitled to recover from the other party all costs and expenses(Including attorneys' fees) incurred in such action or proceeding and any appeal thereof.

6. **Severability** In the event any provision or portion of any provision of this Agreement shall be held by court of competent jurisdiction to be unenforceable or invalid, the remaining provisions or portions thereof shall remain in full force and effect.
7. **Entire Agreement** Notwithstanding any purchase order submitted by Buyer whether referenced on the facing page hereof or attached hereof, this agreement constitutes the entire agreement between buyer and Seller pertaining to the subject matter hereof. Any and all written or oral agreements or understandings heretofore existing between parties pertaining to the subject matter hereof are expressly superseded and canceled by this Agreement.
8. **Time is of the Essence** Except as to the provisions of this Agreement relating to shipping dates and shipping delays, time is of the essence with respect to each of the terms, conditions, provisions and covenants of this Agreement.
9. **Binding Effect** Subject to Part C of this Agreement, the agreement shall be binding upon and shall inure to the benefit of the parties and their legal representatives, successors and assigns.
10. **Headings** Headings contained in this Agreement are for purposes of convenience only and are not part of this agreement