

Terms and Conditions of Sale United States and Canada

1. DEFINITIONS

“**Buyer**” means the entity to which Seller is selling Products or Services under a Contract.

“**Contract**” means the agreement between Buyer and Seller governing the sale of Products and/or Services by Seller to Buyer. These Terms and Conditions, the Quotation (if one is issued by Seller), any purchase order acknowledgement (if one is issued by Seller), and Buyer’s purchase order (except to the extent that it conflicts with these Terms and Conditions, the Quotation, and/or the order acknowledgement) constitute the Contract.

“**Product**” or “**Products**” means the equipment, parts, materials, supplies, and other goods that Seller has agreed to supply under the Contract. References in these Terms and Conditions to the purchase and sale of Products may mean, where applicable, the licensing of Software loaded on or provided with the Products.

“**Quotation**” means Seller’s statement identifying the Products and Services, together with any quantity, price, delivery schedule, and/or other terms and conditions (in addition to or different from these Terms and Conditions), offered by Seller for sale to Buyer. A Quotation that incorporates these Terms and Conditions by reference shall be deemed to include these Terms and Conditions, whether or not Seller provides a complete copy of these Terms and Conditions to Buyer with the Quotation, with a purchase order acknowledgement, or with an invoice. Where there is a conflict between these Terms and Conditions and other provisions of the Quotation, the latter shall control.

“**Service**” or “**Services**” means the services that Seller has agreed to provide under the Contract.

“**Software**” means software loaded on or provided with the Products.

“**Seller**” means the Marathon entity supplying Products, licensing Software and/or providing Services as specified in the Quotation.

“**Terms and Conditions**” means these Terms and Conditions of Sale.

2. CONTRACT FORMATION: No agreement or understanding, oral or written, purporting to modify these Terms and Conditions shall be binding on Seller unless it is made in writing, specifically stating that it is a modification of these Terms and Conditions and it is signed by Seller’s authorized representative. No course of dealing, usage of trade, or course of performance shall be relevant to explain or supplement any of these Terms and Conditions. If these Terms and Conditions are deemed an offer, Buyer’s acceptance of Seller’s offer is expressly limited to acceptance of these Terms and Conditions. Fulfillment of Buyer’s purchase order does not constitute acceptance of any of Buyer’s terms and conditions and does not modify or amend these Terms and Conditions. Buyer’s purchase order for the purchase of Products and/or for the performance of Services shall constitute Buyer’s assent to these Terms and Conditions. Any terms and conditions contained in Buyer’s purchase order or other form of communication from Buyer that are additional to or different from these Terms and Conditions, shall be deemed rejected by Seller, unless expressly accepted in writing by Seller’s authorized representative. Alternatively, if these Terms and Conditions are deemed to be a response to, an acceptance of, or a written confirmation of, Buyer’s offer, whether provided in the form of a purchase order or otherwise, Seller’s acceptance is expressly conditioned upon Buyer’s assent to these Terms and Conditions. Buyer’s acceptance of Products tendered to Buyer by Seller shall constitute Buyer’s express assent to all of the terms and conditions contained in these Terms and Conditions. All proposals, negotiations and representations, if any, made prior to or with reference hereto are hereby superseded by these Terms and Conditions. References in this section to “these Terms and Conditions” shall be deemed to mean these Terms and Conditions and Seller’s Quotation if Seller has issued a Quotation.

3. ACCEPTANCE OF PURCHASE ORDERS: No Buyer purchase order shall be binding on Seller until accepted in writing by Seller, and Seller shall have no liability to Buyer with respect to purchase orders that are not accepted for any reason, including, but not limited to, failure to meet credit approval. Shipment against a

purchase order shall be deemed to constitute Seller's acceptance thereof, subject to these Terms and Conditions. All purchase orders shall be subject to these Terms and Conditions, whether or not the purchase orders so state. Purchase orders accepted by Seller may not be cancelled or modified by Buyer without the prior written consent of Seller. In the event Seller has accepted Buyer's purchase order in writing, Buyer may not change its purchase order unless Seller accepts in writing any change(s) requested by Buyer (whereby Seller reserves the right to revise the price and delivery schedule).

4. QUOTATIONS: Quotations shall expire and shall be void thirty (30) days from date of the Quotation, unless otherwise specified in the Quotation. The Quotation may be modified or withdrawn by Seller at any time before Seller's receipt of Buyer's conforming acceptance; provided, however, Seller reserves the right upon written notice to Buyer to correct any typographical or clerical errors made in any Quotation before or after receipt of Buyer's conforming acceptance (whereby, if exercised by Seller, Seller shall provide Buyer an opportunity to accept or reject Seller's corrected offer). Prices set forth in Quotations are subject to change in accordance with section 5 "PRICES; PRICE CHANGES."

5. PRICE; PRICE CHANGES

a. **Price.** The price of Products, Software or Services ("Offerings") sold pursuant to the Contract shall be as set forth in the Quotation. If price is not specified in the Quotation, price shall be based upon Seller's prices in effect at the time of shipment. Published prices are for Seller's current Offerings, and are based on, in the case of Products, current standard design and construction from standard materials. Variation from current Offerings requires special pricing. Seller reserves the right at any time, without notice and without incurring any obligation, to discontinue and withdraw any Offerings from sale, to make changes in the design of Offerings, and/or to add improvements to Offerings. Seller reserves the right to discontinue any price advances, discounts, extras and other terms and conditions related to price without notice. Unless otherwise provided in the Quotation, price is based on delivery in accordance with section 8 "DELIVERY; TITLE TRANSFER; RISK OF LOSS/DAMAGE; INSPECTION" below. Prices include Seller's standard packing.

b. Price Changes.

1. Seller may change price set forth in a Quotation at any time upon notice to Buyer, except where (a) the Seller has expressly stated in the Quotation that a price is firm and has expressly stated the period during which the price will be held firm, in which case the price shall remain firm during such period and (b) subsection (2) below does not apply.

2. In response to the following changes increasing Seller's costs, effective upon notice to Buyer, Seller may change unilaterally price applicable to (i) an issued Quotation, even if the Quotation specifies that price is firm and/or (ii) a Contract between the parties: (a) changes in Buyer's specifications, quantities ordered, shipment arrangements and other Buyer requests, including, but not limited to, requests requiring or involving performance of overtime work, special packaging, engineering services, obtaining special certificates related to quality review, or preparation of documentation; (b) changes in freight rates and other transportation related expenses; (c) changes in applicable laws, including, but not limited to, conditions described in Section 6 "TAXES, DUTIES and FEES" below; and (d) changes in Seller's cost of production, such as in the cost of raw materials, components, and/or labor.

c. **Services.** Services prices are based on normal business hours (8 AM to 5 PM Monday through Friday). Overtime and Saturday hours will be billed at one and one half (1.5) times the normal business hour hourly rate. Sunday hours will be billed at two (2) times the normal business hours hourly rate; holiday hours will be billed at three (3) times the normal business hours hourly rate.

6. TAXES, DUTIES AND FEES: Seller shall be responsible for taxes measured on Seller's net income based upon performance of, or payment for, work under the Contract ("Seller Taxes"). Buyer shall be responsible for all other taxes, duties, fees or other charges of any kind (including, but not limited to any manufacturer's tax, retailers' occupation tax, use tax, sales tax, excise tax, duty, custom, inspection or testing fee, value added tax, or any other tax, fee or charge of any nature whatsoever), and any increase in the same, imposed by any governmental authority against Buyer, Seller or Seller's suppliers and/or contractors, based upon the Contract between Seller and Buyer, and whether related to the production, sales, distribution, importation or delivery of

Products or Software, the furnishing of Services, or any other element of Seller's performance under the Contract, or the performance of a Seller supplier or contractor in support of the Contract. In the event that Seller, whether directly or indirectly through one or more of its suppliers and/or contractors, is required to pay any such tax, fee or charge (including any increase in the amount thereof), regardless whether such tax, fee or charge (or increase in the amount thereof) is imposed before or after Seller's delivery of the Products and/or Buyer's payment under the Contract, Buyer shall reimburse Seller for the payment of such tax, fee or charge (or increase in the amount thereof). Seller may add the amount to be reimbursed to the price of the Product, Software or Service or invoice it separately, at Seller's election. In lieu of such reimbursement, Buyer may provide Seller, at the time the order is submitted, with an exemption certificate or other document acceptable to the authority imposing such tax, fee or charge. If Seller's prices include or are intended to cover any taxes, duties or fees (other than Seller Taxes), any increase in such taxes, duties and/or fees shall be the basis for a price adjustment.

7. TERMS OF PAYMENT

a. **Terms.** Terms of payment, unless otherwise set forth in a written and signed agreement, without set-off or discount, in U.S. dollars, and by wire transfer, no later than thirty (30) days from date of invoice.

b. **Payment Default.** If Buyer defaults in any payment when due, or in the event that any voluntary or involuntary bankruptcy or insolvency proceedings involving Buyer are initiated by or against Buyer, then the whole Contract price shall immediately become due and payable upon demand, or Seller, at its option and without prejudice to its other lawful remedies, may defer delivery or cancel the Contract. Where delivery is deferred, and Seller does not demand immediate payment of the full Contract price, pro-rata payments shall become due as shipments are made.

c. **Buyer Financial Condition.** If, during the period of performance of the Contract, the financial condition of Buyer is determined by Seller not to justify the terms of payment specified, Seller may demand full or partial payment in advance before proceeding with the work, or satisfactory security or guarantees that invoices will be promptly paid when due, or, at its option, without prejudice to other lawful remedies, may defer delivery or cancel the Contract.

d. **Delay.** If delivery is delayed by Buyer, which delay must be consented to by Seller, Seller may store the Products in accordance with subsection 8(g) "Storage" below and Seller may submit a new estimate of cost for completion based on prevailing conditions. Payments shall become due from the date on which Seller is prepared to deliver the Products and storage shall be the Buyer's risk and expense as provided in subsection 8(g) "Storage" below. If manufacture is delayed by Buyer for any cause, a partial payment based upon the proportion of the order completed shall become due from the date on which Seller is notified of the delay.

e. **Late Payment Charge.** If any payment owed by Buyer is not paid when due, it shall bear interest, at a rate to be determined by Seller, which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is paid.

f. **Exceptions.** Seller may take exception to the payment terms set forth in this section or different terms and conditions shall apply if Seller specifies such exception or different terms and conditions in Seller's Quotation or other notice provided by Seller to Buyer prior to Seller's receipt of Buyer's purchase order.

g. **Cost of Collection.** Cost of collections (including reasonable attorneys' fees) will be Buyer's responsibility.

8. DELIVERY; TITLE TRANSFER; RISK OF LOSS/DAMAGE; INSPECTION; PACKAGING

a. **Delivery – U.S. Buyer.** For sales in the U.S. that do not involve export from the U.S., unless otherwise stated in specific document signed by the Parties, Seller shall deliver Products to Buyer EXW Seller's U.S. point of shipment (Incoterms® 2020). The point of shipment shall be the shipping dock of Seller's factory, warehouse or other facility that Seller designates as its discretion as point of shipment from time to time

b. **Sales Involving Exports from U.S.**

1. **Delivery -- U.S. Buyer; Subsequent Drop Shipment to Location Outside U.S.** For sales, in the U.S. to a U.S. Buyer, which involve drop shipment at Buyer's request and/or on Buyer's behalf, to a location outside the U.S., unless otherwise stated in specific document signed by the Parties, Seller shall deliver the Products to Buyer EXW Seller's U.S. point of shipment (Incoterms® 2020). The point of shipment shall be the shipping dock of Seller's factory, warehouse or other facility that Seller designates at its discretion as its point of shipment from time to time. Buyer is responsible for all transportation charges incurred after delivery of the Products to the carrier or Buyer at the point of shipment and shall reimburse Seller for any transit insurance or freight pre-paid for the Products by Seller. Buyer shall bear the risk of loss and/or damage in transportation. Buyer is responsible for filing any export documents required for export from the U.S.

2. **Delivery – Non-U.S. Buyer; Routed Export Transactions.** For sales in the U.S. to a non-U.S. Buyer, Seller shall deliver Products to Buyer's freight forwarder EXW Seller's U.S. point of shipment (Incoterms® 2020). The point of shipment shall be the shipping dock of Seller's factory, warehouse or other facility that Seller designates at its discretion as its point of shipment from time to time. In a "Routed Export Transaction," as defined in the U.S. Census regulations, 15 CFR Section 30.3, where Buyer is a non-U.S. entity, Buyer shall authorize Buyer's designated freight forwarder or Seller to facilitate the export of the Products from the U.S. and to prepare and file export documentation with respect to such export transaction (hereafter, to "Facilitate the Export"). If Buyer authorizes its designated freight forwarder to Facilitate the Export, Buyer's freight forwarder shall provide Seller with a copy of the final export documentation and proof of filing. If Buyer authorizes Seller to Facilitate the Export, Buyer shall cause Buyer's freight forwarder to provide Seller the information needed by Seller to Facilitate the Export. Buyer shall give timely notice to Seller identifying whom it has designated to Facilitate the Export.

c. **Delivery Dates.** Delivery dates are approximate, are not guaranteed and are based upon prompt receipt by Seller from Buyer of all necessary shipping and other information. Seller may deliver in advance of the delivery schedule. Seller reserves the right to make delivery in installments, with all installments to be separately invoiced and paid for by Buyer when due per invoice, without regard to subsequent deliveries. Delivery of the Products to a commercial carrier at the shipping point shall constitute delivery to Buyer.

d. **Title Transfer.** Title to Products shall pass to Buyer upon the earlier of delivery of the Products to the carrier or Buyer at the point of shipment in accordance with subsection (a) "Delivery – US Buyer" above, except that, for Routed Export Transactions, title shall transfer to Buyer upon delivery to Buyer's designated freight forwarder. Subject to applicable law, Seller, upon notice to Buyer, may retain title to the Products until such time as Seller receives payment in full from Buyer. Title to Software shall not pass to Buyer and is subject to the applicable license.

e. **Risk of Loss/Damage.** Risk of loss and/or damage shall pass to Buyer upon delivery in accordance with subsection (a) "Delivery – US Buyer" above, except that, for Routed Export Transactions, risk of loss and/or damage shall pass upon delivery of the Products to Buyer's designated freight forwarder. In the event of a loss or damage event with respect to which Buyer asserts a claim against the carrier, Seller will reasonably cooperate with Buyer in attempting to resolve the claim.

f. **Delivery by Seller's Carrier.** Where the parties agree that delivery shall be made at a location other than Seller's point of shipment, where Seller will deliver using its carrier or Seller's privately owned or leased trucks, unloading at the agreed location shall constitute delivery to Buyer. Freight and handling charges by Seller may not reflect actual freight charges prepaid to the carrier by Seller due to incentive discounts earned by Seller based upon Seller's aggregate volume of freight tendered to a carrier or when a carrier must be used which charges a rate which is different than the rate upon which Seller's freight and handling charges were based. When shipments are delivered in Seller's privately owned or leased trucks, Buyer will be charged an amount approximating the prevailing common carrier rate.

g. **Storage.** In the event that Buyer is unable to accept delivery of the Products at time of shipment, Seller shall invoice Buyer for the full purchase price as if shipment had been made and: (i) if Seller is able to store such Products in its own facilities, Buyer will pay Seller the reasonable handling and storage charges for the period of such storage, or (ii) if Seller is unable to store such goods at its own facility, Seller reserves the right to arrange handling and storage in a suitable bonded warehouse for Buyer at Buyer's expense. In cases where

handling and storage become necessary, it shall be Buyer's responsibility to notify Seller when shipment is to be made. Seller will make necessary arrangements for shipment at Buyer's expense.

h. **Overruns.** Buyer agrees to accept overruns of up to ten percent (10%) of the quantity of Products ordered in Buyer's purchase order on "made-to-order" Products. Any such additional Products shall be priced at the price charged for the specific quantity ordered.

i. **Inspection.** Buyer shall inspect and accept or reject the Products delivered pursuant to the Contract promptly after Buyer takes custody of such Products. In the event the Products do not comply with the applicable specifications, Buyer shall notify Seller of such noncompliance and Seller shall have a reasonable opportunity to correct any such noncompliance. Buyer shall be deemed to have accepted any Products delivered under the Contract and to have waived any such noncompliance in the event Seller does not receive such notification from Buyer within fifteen (15) days after Buyer takes custody thereof.

j. **Packaging.** Seller will decide how to pack and ship unless specific written instructions are given by Buyer and accepted by Seller. Also, if requested in writing by Buyer and agreed by Seller, special export packaging -- that includes extra packaging, full crates, corrosion protection, and heat-treated lumber -- can be included for an additional amount based on Seller's rates current at the time costs are incurred. Seller will not provide special packaging unless requested in writing by Buyer and agreed by Seller.

k. **Special Charges.** Seller may charge Buyer, and Buyer shall be responsible for payment of, special charges for any of the following requests, if such requests are accepted by Seller: (a) delivery outside of normal lead times; (b) emergency after-hours services; (c) orders for quantities below standard minimum order value. Special charge amounts shall be Seller's rates current at the time the costs are incurred by Seller and (d) in case of any other additional cost incurred in the transportation not described previously Seller shall charge buyer at current rate.

9. EXCUSABLE DELAYS; FORCE MAJEURE

a. **Excuse of Performance.** Seller shall not be liable for any ordinary, incidental, or consequential loss or damage as a result of Seller's delay in or failure of delivery, or installation of Products or performance of Services due to (i) any cause beyond Seller's reasonable control, (ii) an act of God, nature, act of Buyer, embargo or other government act, authority, regulation or request, fire, flood, the public enemy, theft, explosion, accident, strike, slowdown or other labor disturbance, war, armed conflict, act or threat of terrorism, riot, civil unrest, epidemic, energy shortage, delay in transportation, or (iii) inability to obtain or delay in obtaining or reduced availability (in the normal manner and from the usual source) of necessary labor, materials, components, license or facilities. Should any of the aforementioned events occur, Seller, at its option, may cancel Buyer's order with respect to any undelivered Products or incomplete Services or extend the delivery date for a period equal to the time lost because of delay. Notice of such election shall be given promptly to Buyer. In the event Seller elects to so cancel the Contract, Seller shall be released of and from all liability for failure to deliver the Products or to perform the Services, including, but not limited to, any and all claims on behalf of Buyer for lost profits, or any other claim of any nature which Buyer might have. If shipping or progress of the work is delayed or interrupted by Buyer, directly or indirectly, Buyer shall pay Seller for all additional charges resulting therefrom.

b. **Allocation.** If Seller determines that its ability to meet the demand for products, including the Products, or to obtain labor, materials, components or facilities is hindered, limited or made impracticable due to causes set forth in subsection (a) "Excuse of Performance" above, Seller may allocate its available supply of products (without obligation to acquire additional or other supplies of any such products), including the Products, among itself and its purchasers on such basis as Seller determines to be equitable without liability for any failure of performance which may result therefrom.

10. LIMITED WARRANTY

a. Scope and Period

1. **Products.** Seller warrants that the Products shall be delivered free from defects in material, workmanship and title. Unless otherwise stated in the Quotation, this warranty shall expire twelve (12)

months from delivery of the Product or eighteen (18) months from date of manufacture of the Product, whichever occurs first.

2. **Repaired and/or Replaced Products and/or Parts of Products.** Seller warrants that the repaired or replaced Products or parts of Products shall be delivered free from defects in material, workmanship and title. In the case of repaired or replaced Products or parts of Products comprising warranty remedies for Products, this warranty shall expire upon expiration of the warranty period applicable to the Products originally supplied by Seller. In the case of other repaired or replaced Products or parts of Products, unless otherwise stated in the Quotation, this warranty shall expire twelve (12) months from the date of repair or manufacture of the Products or parts of the Products.

3. **Services.** Seller warrants that the Services shall be performed in a competent and diligent manner. Unless otherwise stated in the Quotation, this warranty shall expire ninety (90) days from the date of completion of such Services.

Software. Seller warrants that the Software shall execute, at time of delivery, in accordance with the specification agreed upon in a written and signed agreement by Buyer (as licensee) and Seller (as licensor) when properly installed in the Products. Firmware embedded in the Products will execute Seller's programming instructions. Unless otherwise stated in the Quotation, the warranty shall expire six (6) months from date of manufacture of the first Product in which the Software is loaded.

4. **Applicability.** This warranty shall apply to any Products and/or Software bought, acquired, and/or used by an entity that, or person who, acquires the Products and/or Software from Buyer (a "Transferee"), except that any claim made against Seller pursuant to this warranty shall be made by Buyer only. Seller shall not be bound by this section to satisfy a claim under this section made against Seller by a Transferee, whether such Transferee is a direct or indirect Transferee of Buyer. Buyer shall provide any Transferee of a Product or Software written conspicuous notice of this section and section 11 "LIMITATIONS OF REMEDY AND LIABILITY" hereof.

5. **Exceptions.** The duration of the warranty of certain Products may differ from the warranty duration set forth in subsection (a)(1) "Scope and Period." Buyer must consult Seller directly to confirm the applicable warranty period.

b. **Remedies**

1. **Products.** If, prior to expiration of the warranty period set forth in subsection (a)(1) "Scope and Period," above, any Products shall be proved to Seller's satisfaction to be defective or nonconforming with the warranty set forth therein, Seller will repair or replace such defective Products or components thereof, EXW Seller's factory, warehouse or other facility that Seller designates at its discretion as point of shipment from time to time (Incoterms® 2020), or will refund or provide Buyer with a credit in the amount of the purchase price paid therefor by Buyer, at Seller's sole option. Buyer's exclusive remedy and Seller's sole obligation under this warranty shall be limited to such repair or replacement, EXW factory, warehouse or other facility that Seller designates at its discretion as point of shipment from time to time (Incoterms® 2020), or refund or credit by Seller, and shall be conditioned upon Seller's receiving written notice of any defect and/or nonconformance within a reasonable period of time, but in no event more than thirty (30) days, after it was discovered or by reasonable care should have been discovered. All claims not made in writing and received by Seller within such thirty (30) day period shall be deemed waived. In no event shall Seller's liability for such defective or nonconforming Products exceed the purchase price paid by Buyer for such Products. With prior approval from Seller, Buyer shall return the alleged defective Product or part, freight prepaid, for Seller's inspection, and no other Products shall be returned to any Seller office, factory, warehouse, authorized service center or other facility, without Seller's written consent.

2. **Repaired and/or Replacement Products and/or Parts of Products.** If prior to the expiration of the applicable warranty period set forth in subsection (a)(2) "Repaired and/or Replaced Products and/or Parts of Products" above, any replacement Products and/or parts of Products shall be proved to Seller's satisfaction to be defective or nonconforming with the warranty set forth therein, the remedy set forth in

subsection (b)(1) "Products" above shall apply to such replacement Products and/or parts of Products.

3. **Services.** If, prior to expiration of the warranty period set forth in subsection (a)(3) "Services," above, any Services shall be proved to Seller's satisfaction to be nonconforming with the warranty set forth therein, Seller will re-perform such nonconforming Services. If the Services cannot be re-performed, Seller, at its option, shall refund or credit monies paid by Buyer for such nonconforming Services.

4. **Software.** If, prior to expiration of the warranty period set forth in subsection (a)(4) "Software" above, (i) Buyer provides, in writing, a complete description of the claimed nonconformance in the Software, and (ii) the Software is proven to Seller's satisfaction to be so nonconforming with the warranty set forth therein, Seller will correct the nonconformance by, at its option: (i) modifying or making available to Buyer instructions for modifying the program causing such nonconformance, or (ii) making available a corrected or replacement program EXW Seller's factory, warehouse or other facility that Seller designates at its discretion as point of shipment from time to time (Incoterms® 2020).

c. **Exclusions - The warranties set forth in this section do not cover**

1. Shipping expenses to and from Seller's office, factory, warehouse, authorized service center or other destination designated by Seller for repair or replacement of defective Products or any tax, duty, custom, inspection or testing fee, or any other charge of any nature related thereto;

2. Costs of removing defective Products from, and/or disassembling, equipment in which Products are assembled or reinstalling Products and/or reassembling such equipment, or testing repaired or replaced Products and/or the equipment; the foregoing shall include the costs of removal and replacement of systems, structures or other parts of Buyer's or the end user's facility as may be applicable, as well as decontamination costs;

3. Field service travel and living costs and expenses;

4. Products subjected to abuse, neglect, negligence, misuse, misapplication, accident, damages by circumstances beyond Seller's control, improper installation (if by anyone other than Seller), improper operation (including, but not limited to, operation in excess of rated capacity or otherwise not in accordance with installation, maintenance, or operating instructions or requirements) improper maintenance, improper storage, and/or any other than normal use or service;

5. Products installed, maintained, serviced, repaired or altered by anyone other than Seller or Seller's authorized service agencies;

6. Products and/or parts not manufactured by Seller; for Products furnished by Seller, but manufactured by others, Seller will assign to Buyer the written warranty, if any, of the manufacturer, if assignment is reasonably practicable; however, Seller does not adopt or guarantee or represent that the manufacturer will comply with any of the terms of the warranty of such manufacturer. In no event shall Seller have any liability for Products and/or parts not manufactured by Seller;

7. any technical advice furnished by Seller without charge to Buyer with respect to use of the Products; all such technical advice, or results obtained, is given and accepted at Buyer's sole risk;

8. failures of the Software to be interruption-free or error-free or to meet Buyer's or any other party's requirements; and, problems caused by use of the Software in conjunction with third-party software, hardware, or products;

9. dynamic vibrations imposed by the drive system in which the Products are installed, unless the nature of the vibrations has been defined and accepted in writing by Seller as a condition of operation within the scope of this warranty;

10. unauthorized attachments, modifications or disassembly;

11. damage during shipping; or
12. products purchased from unauthorized distributors, resellers or internet sites.

Buyer's care in selection, adequate testing at time of installation, operation and maintenance of all Products and Software is required for adequate performance.

d. **DISCLAIMER: THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER OR NOT THE PURPOSE OR USE HAS BEEN DISCLOSED TO SELLER IN SPECIFICATIONS, DRAWINGS, OR OTHERWISE AND WHETHER OR NOT SELLER'S PRODUCTS ARE SPECIFICALLY DESIGNED AND/OR MANUFACTURED BY SELLER FOR BUYER'S USE OR PURPOSE. NO EMPLOYEE, REPRESENTATIVE, OR AGENT OF SELLER OTHER THAN AN OFFICER OF SELLER IS AUTHORIZED TO ALTER OR MODIFY ANY PROVISION OF THIS SECTION OR TO MAKE ANY GUARANTEE, WARRANTY, OR REPRESENTATION, EXPRESS OR IMPLIED, ORALLY OR IN WRITING, WHICH IS CONTRARY TO THE FOREGOING. SELLER DOES NOT WARRANT THAT THE OPERATION OF ANY SOFTWARE WILL BE UNINTERRUPTED OR ERROR OR BUG-FREE.** Except where Buyer and Seller agree in a written and signed agreement upon the specifications applicable to the Products, Software, and/or Services, any description of the Products, Software, and/or Services, whether in writing or made orally by Seller or Seller's agents, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with Buyer's order are for the sole purpose of identifying the Products, Software and/or Services and shall not be construed as an express or implied warranty. Any suggestions by Seller or Seller's agents regarding use, application or suitability of the Products shall not be construed as an express or implied warranty unless confirmed to be such in writing by Seller's authorized officer. In the event an authorized officer of Seller sets forth any express or implied warranties in writing and (1) the actual operating conditions or other conditions or use differ from those represented by Buyer to Seller or (2) Seller has relied upon any data or information supplied by Buyer to Seller in the selection or design of Products and/or provision of Services and such data or information is inaccurate, any such warranties contained therein which are affected by such conditions shall be null and void. This warranty allocates the risks of Products, Services, and Software failure between Seller and Buyer. This allocation is recognized by both parties and is reflected in the price of the Products, Services and Software.

11. LIMITATIONS OF REMEDY AND LIABILITY

a. **Breach of Warranty Claims.** Buyer's only remedy for breach of any warranty under the Contract, other than the warranty provided under section 14 "INTELLECTUAL PROPERTY INDEMNITY," shall be the applicable remedy set forth in section 10 "LIMITED WARRANTY" above. Seller's total liability for any and all breach of warranty claims under the Contract shall not exceed the purchase price allocable to the Product, Software or Service or part thereof which gives rise to the claim.

b. **Other Claims.** Seller's liability for any claim other than a breach of warranty claim under section 10 "LIMITED WARRANTY," whether in contract, negligence, tort, strict liability, indemnity or otherwise for any loss or damage arising out of, connected with, or resulting from the Contract or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, operation or use of any Products covered by or furnished under the Contract or from Services rendered under the Contract, shall in no case (except as provided in section 13 "INDEMNITY" and section 14 "INTELLECTUAL PROPERTY INDEMNITY," and except to the extent of exclusions and limitations of liability that are prohibited by applicable law) exceed five percent (5%) of the purchase price allocable to the Products or part thereof or Services giving rise to the claim.

c. **NO OTHER REMEDIES OR LIABILITIES. IT IS EXPRESSLY AGREED THAT SELLER'S ONLY REMEDIES AND TOTAL LIABILITY FOR ANY DAMAGES, COSTS OR EXPENSES ARISING OUT OF OR RELATED TO THIS CONTRACT OR ITS PRODUCTS, SOFTWARE OR SERVICES, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, TORT/EXTRA-CONTRACTUAL LIABILITY (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE ARE LIMITED AS SET FORTH IN SUBSECTIONS "BREACH OF WARRANTY CLAIMS" AND "OTHER CLAIMS" ABOVE. UNDER NO CIRCUMSTANCES**

WILL SELLER, ITS OFFICERS, DIRECTORS, EMPLOYEES OR ASSIGNS BE LIABLE FOR ANY OTHER REMEDY, LOSS, COST, DAMAGE OR EXPENSE WHETHER DIRECT OR INDIRECT.

d. **INDIRECT DAMAGE DISCLAIMER.** IN NO EVENT WHATSOEVER WILL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, CONTINGENT, LIQUIDATED, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, LOSS OF USE OF THE PRODUCTS, SOFTWARE OR ANY RELATED EQUIPMENT OR SYSTEMS; LOSS OF REVENUE, INCOME, PROFIT, OR PRODUCTION; COST OR INCREASED COST OF OPERATION, CAPITAL, SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES; SPOILAGE OR DAMAGE TO MATERIAL OR DATA; BUSINESS INTERRUPTION, DOWNTIME, SHUTDOWNS OR SLOWDOWN COSTS; CHANGE OUT COSTS; OR BUSINESS INTERRUPTION, DOWNTIME, SHUTDOWN, OR SLOWDOWN COSTS; OR ANY OTHER TYPES OF ECONOMIC LOSS, PENALTIES, SPECIAL OR PUNITIVE DAMAGES, AND CLAIMS OF BUYER'S CUSTOMERS FOR ANY SUCH DAMAGES. BUYER WILL INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM ANY LOSS, COST, EXPENSE, DAMAGE, OR CAUSE OF ACTION TO OR BY A THIRD PARTY THAT EXCEEDS THESE LIMITATIONS OF LIABILITY.

e. **Expiration of Claims.** All claims against Seller arising out of or related to the Contract or the performance or breach thereof shall expire unless made and presented to Seller in writing by Buyer before expiration of the applicable warranty period.

f. **Precedence.** The limitations of this section shall apply regardless of whether a claim is based in contract, tort (including negligence), warranty, strict liability, intellectual property, or otherwise, and shall take precedence over any conflicting terms and conditions, except where the limitations of liability of such conflicting terms limit Seller's liability further.

12. BUYER RESPONSIBILITIES: Buyer shall provide Seller ready access to the site where any Services are to be performed and adequate workspace and facilities to perform the Services. Buyer shall inform Seller, in writing, at the time of order placement, of any known hazardous substance or condition at the site, including, but not limited to, the presence of asbestos or asbestos containing materials, and shall provide Seller with any data reasonably requested by Seller regarding same. Buyer shall appoint a representative familiar with the site and the nature of the Services to be performed by Seller to be present at all times that Seller personnel are at the site.

Seller shall not be liable for any expenses incurred by Buyer in removing, replacing or refurbishing any Buyer equipment or any part of Buyer's building structure that restricts Seller access or ability to perform the Services. Buyer personnel shall cooperate with and provide all assistance reasonably requested by Seller. Seller shall not be liable or responsible for any work performed by Buyer.

Seller may suspend or terminate Services, at its sole discretion, without liability to Buyer if Buyer fails to meet its obligations hereunder or Seller, in its sole discretion, determines that continuing to provide Services to Buyer represents a hazardous condition for Seller's employees.

13. INDEMNITY

a. **Third party claims.** Each of Buyer and Seller (each an "Indemnified Party" and an "Indemnifying Party") shall indemnify the other party from and against claims brought by a third party, if such claims relate to Products, Services or Software purchased by Buyer from Seller pursuant to the Contract, for bodily injury or damage to the third party's tangible property, to the extent such injury and/or damage is caused by the negligence of the Indemnifying Party, provided that the Indemnified Party gives the Indemnifying Party prompt notice of any such claim and all necessary information and assistance so that the Indemnifying Party, at its option, may defend or settle such claim and the Indemnified Party does not take any adverse position in connection with such claim. In the event that the injury or damage is caused by joint or concurrent negligence of Buyer and Seller, the loss or expense shall be borne by each party in proportion to its degree of negligence. For purposes of Seller's indemnity obligations hereunder, Products shall not be considered third party property and the facility in which a Product or Software is used and/or the Services are performed shall not be considered third party property.

b. **Indemnity by Buyer for Third Party Warranty Claims.** If Buyer supplies Products or Services to a third party, uses Products or Services at a facility owned by a third party, and/or transfers Products and/or Software to a third party, Buyer shall indemnify and defend Seller from and against any and all claims by, and liability to, any such third party in excess of the limitations set forth in sections 10 "LIMITED WARRANTY" and 11 "LIMITATIONS OF REMEDY AND LIABILITIES." For purposes of this subsection, "Seller" means Seller, its affiliates, suppliers, contractors, licensors and their employees.

14. INTELLECTUAL PROPERTY INDEMNITY: Seller warrants that, to the best of its knowledge, Products, Services and/or Software furnished hereunder, and any part thereof, (each a "Delivered Item") shall be delivered free of any rightful claim of any third party not affiliated with Buyer for infringement of any U.S. patent, any trademark registered in the U.S. Patent and Trademark Office and/or any copyright registered in the U.S. Copyright Office. Seller will, at its own expense, defend or settle any suits that may be instituted against Buyer for alleged infringement by the Delivered Item of any U.S. patent, any trademark registered in the U.S. Patent and Trademark Office and/or any copyright registered in the U.S. Copyright Office provided that: (a) such alleged infringement consists of the use of the Delivered Item for (i) any of the purposes for which Buyer informed Seller such Delivered Items would be used, or (ii) if Buyer did not so inform Seller, any of the purposes for which Seller reasonably believed such Delivered Items would be used; (b) Buyer shall have made all payments for such Delivered Items then due hereunder; (c) Buyer shall give Seller immediate notice in writing of any such suit and transmit to Seller immediately upon receipt of all processes and papers served upon Buyer; (d) Buyer does not take any position adverse to Seller in connection with such claim; and (e) Buyer shall permit Seller through Seller's counsel, either in the name of Buyer or in the name of Seller, to defend such suit(s) and give all needed information, assistance and authority to enable Seller to do so.

In case of a final award of damages in any such suit, Seller will pay such award but will not be responsible for any compromise or settlement made without its written consent. In case the Delivered Item itself is in such suit held to infringe any valid patent issued in the United States and/or a trademark and/or copyright registered in the United States, and its use is enjoined, or in the event of a settlement or compromise approved by Seller which shall preclude future use of the Delivered Item, Seller shall, at its own expense and at its sole option, either: (a) procure rights to continue using such Delivered Item; (b) modify the Delivered Item to render it non-infringing; (c) replace the Delivered Item with a non-infringing Product and/or Software; or (d) refund the purchase price paid by Buyer for the Delivered Item after return of the Delivered Item to Seller (less reasonable depreciation for any period of use). Notwithstanding the foregoing, Seller shall not be held responsible for claims of infringement of any patents covering the use of the Delivered Item in combination with other goods or materials not furnished by Seller.

The foregoing states the entire liability of Seller for intellectual property infringement, and **IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES ATTRIBUTABLE TO AN INTELLECTUAL PROPERTY INFRINGEMENT.** Buyer, at its own expense, shall defend Seller against, and/or settle, (a) any patent, trademark, copyright or other intellectual property infringement claim pertaining to a Delivered Item furnished by Seller to Buyer manufactured in accordance with designs, drawings or other descriptions proposed or furnished by Buyer; and (b) any claim against Seller of contributory infringement resulting from the use or resale by Buyer of a Delivered Item sold hereunder. Buyer shall indemnify Seller for any award against Seller or settlement by Seller regarding any such claims and attorneys' fees and defense costs incurred in defense of such claims. In no event will Seller's total liability to Buyer under this section "Intellectual Property Indemnity" exceed the purchase price of the Product.

15. OWNERSHIP OF PROPERTY. Unless otherwise agreed in a written agreement signed by Seller, all material, equipment, facilities, product samples and special tooling (the meaning of which term includes, but is not limited to, tools, jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, and manufacturing aids and replacements thereof), used, made, conceived, developed or acquired by Seller for and/or in connection with the Contract ("Seller Property"), shall remain the property of Seller and will vest in and inure to Seller's sole benefit. The foregoing shall apply notwithstanding any charges therefor which may have been or may be imposed by Seller on Buyer. Buyer shall have no claim to, nor ownership interest in, any Seller Property in whatever form and Buyer shall return any Seller Property to Seller upon written request from Seller. Buyer shall not give, loan, exhibit, sell or transfer any such property or reproduction thereof to any person, organization or entity who is not authorized by Seller in writing to receive it and shall not enable such person, organization or entity to furnish products or parts therefore or services similar to the Products or

Services. Unless otherwise set forth in a written and signed agreement between Buyer and Seller, Buyer's property held in Seller's possession is held at Buyer's risk and not covered by Seller's insurance.

16. OWNERSHIP OF INTELLECTUAL PROPERTY; OWNERSHIP OF DATA

a. **Intellectual Property.** All drawings, know-how, designs, specifications, inventions, devices, developments, processes, software, copyrights, trademarks, patents and applications therefore, and other information or intellectual property used, made, conceived, developed or acquired by Seller in connection with the Contract (whether or not disclosed or otherwise provided to Buyer by Seller) and all rights therein (collectively, "Seller Intellectual Property") will remain the property of Seller and will vest in and inure to Seller's sole benefit and will be kept confidential by Buyer in accordance with these terms and conditions. Buyer shall have no claim to, nor ownership interest in, any Seller Intellectual Property and any such Seller Intellectual Property, in whatever form and any copies thereof (including but not limited to product samples), shall be promptly returned to Seller upon written request from Seller. Buyer acknowledges that no license or rights of any sort are granted to Buyer hereunder in respect of any Seller Intellectual Property other than (a) as set forth in section 17 "SOFTWARE LICENSE" below and (b) the limited right to use the Seller's proprietary Products purchased from Seller. Unless specifically provided for and itemized for payment as agreed to by Seller, the sale of Products or Services by Seller to Buyer does not include delivery of any design, development or related services associated with Seller Intellectual Property. Seller retains all rights, title and interest in drawings, engineering instructions, specifications, and all other written data, if any, furnished with the Products and/or Services. Seller may collect, and will own, any statistics and other information collected about the use and performance of the Products and Software.

b. **Data.** Buyer acknowledges and agrees to the collection, processing, and international transfer of personal data and information related to the Product(s), Software, Service(s), and/or the business relationship between Buyer and Seller ("Data") for Seller's general purposes, including, but not limited to, providing Buyer with product/service recommendations, benchmarking, condition monitoring, maintenance and support, and marketing to Buyer (collectively, "Business Purposes"). Seller shall be the exclusive owner of all Data. Seller may, but is not required to, anonymize Data so that Buyer is not readily identifiable (the "De-Identified Data"). Seller shall have the right and ability to use the Data and the De-Identified Data for its Business Purposes. In the event Seller does not own or is unable to own the Data or the De-Identified Data as a result of applicable law, or contractual commitment or obligations, Buyer grants Seller a non-exclusive, perpetual, irrevocable, fully-paid-up, royalty free license to use, copy, distribute, and otherwise exploit statistical and other aggregated data derived from Buyer's use of the Data or De-Identified Data for Business Purposes. Buyer further acknowledges that Buyer has read and understood Seller's Privacy Notice at: <https://www.weg.net/institutional/BR/en/privacy-policy>. Where required under law, and to the extent required, Buyer provides consent to the processing and transfer according to Seller's Privacy Notice, and further confirms that it has obtained consent from relevant data subjects, including Buyer employees, where required.

17. SOFTWARE LICENSE

a. **License Grant:** Notwithstanding any other provision herein to the contrary, Seller shall retain all rights of ownership and title in its respective Software and firmware, including all worldwide intellectual property and proprietary rights. Seller grants Buyer a limited, nonexclusive, non-sublicensable, non-transferable (except as defined in subsection (b) "Scope of License"), royalty-free, limited license to use the Software and firmware in the U.S. solely for its own internal business purposes and solely in conjunction with (a) the operation of the Products purchased and sold under the Contract and/or other product meeting Seller's specifications; and (b) any other purpose agreed upon in a written and signed agreement between Buyer and Seller. Buyer shall only have those rights to Software and firmware explicitly granted herein, and any and all other rights are retained by Seller or its licensors (as described in subsection (c) "Third Party Software").

b. **Scope of License:** Except as set forth in subsection (c) "Third Party Software," below, all Software and firmware shall be governed by these Terms and Conditions. Upon Seller's prior written approval, Buyer may make a reasonable number of copies of Software as necessary for backup, configuration, installation, and restoration of the Products. Also, upon Seller's prior written approval, Buyer may authorize a third-party contractor or service provider to exercise the rights set forth in the preceding sentence solely on Buyer's behalf and for Buyer's benefit. Buyer may transfer possession of Software and its media and firmware to another party

only in conjunction with the transfer of the Products on which the Software and firmware is loaded and only upon agreement of the other party to the terms and conditions of the Contract. Upon such transfer, Buyer shall destroy all Buyer's copies of Software and firmware and related documentation and ensure that any third-party contractor or service provider does the same. All licenses and grants pursuant to the Contract shall immediately terminate once Buyer no longer rightfully owns or possesses the Products. Upon Seller's request, Buyer shall provide Seller with written notice of any such transfer providing the name, address, and contact information of the subsequent Buyer within fifteen (15) days of such transfer.

c. **Third-Party Software:** Seller's Software and firmware may include certain third-party software that is integrated or embedded therein or provided with the Software and firmware ("Third-Party Software"). Third-Party Software is included in the term "Software" for purposes of this Contract. Notwithstanding any other provision herein to the contrary, each respective third-party licensor shall retain all rights of ownership and title in its Third-Party Software, including all worldwide intellectual property and proprietary rights. Buyer's use of Third-Party Software and firmware shall be governed by these Terms and Conditions and the respective third-party licensor's license terms.

d. **Use Restrictions:** Buyer shall not (a) copy, display, transfer, adapt, modify, or distribute in any form the Software and firmware except as set forth in the Contract or in Seller documentation provided by Seller to Buyer with the Software and firmware; (b) reverse engineer, disassemble, decompile, or otherwise translate the Software or firmware's object code, unless expressly permitted by applicable law without the possibility of contractual waiver; or (c) sublicense or lease the Software and firmware or any copy thereof except with the transfer of the Products on which the Software and firmware is loaded. Except as provided under the terms of Seller's standard escrow agreement between Seller and Buyer, if applicable, Buyer shall not make available to any party, without prior written consent from Seller or its authorized agent, source code for the Software and firmware. Buyer shall not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of, the Software, the Products, or any technical information about the Software or the Products, to any country for which the United States Export Administration Act, any regulation thereunder, or any similar United States law or regulation, requires an export license or other United States Government approval, unless Buyer obtains the appropriate export license and obtains written approval from Seller.

e. **Maintenance and Support:** Seller may offer to Buyer the option to purchase from Seller annual Software maintenance and support services under the terms and conditions of Seller's then-standard maintenance and support agreement. Buyer may renew this maintenance term at Seller's then-current maintenance rates. In the event Buyer purchases additional Software licenses, maintenance fees for such licenses shall be prorated to be coterminous with Buyer's existing maintenance period. In no event shall Seller be responsible for providing maintenance services for a period during which maintenance coverage is lapsed. Seller may choose to provide updated Software from time-to-time and will coordinate such updates with Buyer.

18. CONFIDENTIAL INFORMATION. All information furnished or made available by Seller to Buyer in connection with the subject matter of the Contract shall be held in confidence by Buyer. Buyer may not use such information or disclose such information to others without Seller's prior written consent. The obligations in this paragraph will not apply to any information which (a) at the time of disclosure was or thereafter becomes, generally available to the public by publication or otherwise through no breach by Buyer of any obligation herein, (b) Buyer can show by written records was in Buyer's possession prior to disclosure by Seller, or (c) is legally made available to Buyer by or through a third party having no direct or indirect confidentiality obligation to Seller with respect to such information.

19. SECURITY AGREEMENT AND FINANCING STATEMENTS: As security for payment of the purchase price under the Contract, Buyer hereby irrevocably grants Seller a security interest in the Products purchased by Buyer, together with all accessories, attachments and replacement parts and all substitutions, replacements and proceeds thereof to secure payment of the purchase price and of all monies which may be due under the Contract. Buyer hereby authorizes Seller to file all financing statements, any amendments and continuations thereof, or any other documents necessary or reasonably required, for the perfection and protection of a security interest under applicable law, and to deliver notice to prior holders of security interests, of Seller's security interest in the Products to protect its interest.

20. RETURN OF PRODUCTS: No Product or part shall be returned to Seller without written authorization and shipping instructions first having been obtained from Seller in accordance with the applicable Seller Products return policy.

21. ASSIGNMENT AND SUBCONTRACTING: Buyer shall not assign its rights or delegate its duties hereunder, or any interest therein, to any other person, whether by operation of law or otherwise, without Seller's prior written approval. Seller may, without the necessity of obtaining Buyer's prior written consent, assign the Contract or subcontract the production of all or any portion of the Products and/or performance of the Services.

22. CANCELLATION AND CHANGE

a. **Cancellation.** No purchase order submitted to Seller may be cancelled by Buyer without the prior written consent of Seller, which consent will at all times be conditioned on Buyer's agreement to pay Seller's cancellation charge. For a finished Product that, in Seller's judgment, is readily resalable to others, the per unit cancellation charge shall be the greater of \$100 or fifteen percent (15%) of the invoice price of the Product, per unit. For all other cancellations, the cancellation charge shall be the greater of \$100 or fifteen percent (15%) of the invoice price of the Product or Service, plus an amount equal to all cost and expenses incurred by Seller and arising out of or in connection with Buyer's purchase order (which may include, but are not limited to, materials ordered, engineering, drawing, or manufacturing development time) plus reasonable profit.

b. **Change.** No purchase order submitted to Seller may be changed by Buyer without the prior written consent of Seller, which consent will at all times be conditioned on Buyer's agreement to pay Seller's change charge. The change charge shall be the greater of \$100 or fifteen percent (15%) of the invoice price of the Product or Service. Seller may change price in accordance with Section 5(b) "Price Changes." Buyer may not reschedule deliveries, except with (i) written notice having been given to Seller more than ninety (90) days prior to the latest acknowledged ship date (ii) Seller having accepted and agreed upon such reschedule and (ii) agreement between Buyer and Seller upon terms by which Buyer indemnifies Seller for Seller's losses resulting from the reschedule. Buyer shall indemnify Seller for Buyer's delays.

23. PRODUCT SAFETY AND SAFETY DEVICES; HIGH-RISK APPLICATION USE DISCLAIMER

a. **PRODUCT SAFETY AND SAFETY DEVICES.** Products designed and manufactured by Seller are capable of being used in a safe manner, but Seller does not warrant their safety under all circumstances. Products are provided with only those safety devices identified in the Contract. **IT IS BUYER'S RESPONSIBILITY TO FURNISH THE APPROPRIATE GUARDS AND TO INSTALL AND USE THE PRODUCTS IN A SAFE MANNER IN COMPLIANCE WITH APPLICABLE HEALTH AND SAFETY REGULATIONS AND LAWS AND GENERAL STANDARDS OF REASONABLE CARE. IF BUYER FAILS TO DO SO, BUYER SHALL INDEMNIFY, DEFEND AND HOLD SELLER, ITS OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS, ASSIGNS SUPPLIERS AND OTHER CUSTOMERS HARMLESS FROM ANY LOSS, COST, EXPENSE, DAMAGE, ACTION OR CAUSE OF ACTION RESULTING FROM BUYER'S FAILURE.**

b. **HIGH RISK APPLICATION USE DISCLAIMER. PRODUCTS AND SERVICES SOLD BY SELLER ARE NOT INTENDED FOR USE IN CONNECTION WITH ANY NUCLEAR FACILITY OR ACTIVITY, CRITICAL SAFETY SYSTEM, MEDICAL DEVICE, MILITARY DEVICE, SATELLITE, AVIATION EQUIPMENT, AIR TRAFFIC CONTROL EQUIPMENT, OR OTHER HIGH-RISK APPLICATIONS (COLLECTIVELY, "HIGH RISK APPLICATIONS"). SELLER SHALL NOT USE OR PERMIT OTHERS TO USE PRODUCTS OR SERVICES FOR SUCH HIGH-RISK APPLICATIONS WITHOUT SELLER'S PRIOR WRITTEN CONSENT. IF SO USED WITHOUT SELLER'S PRIOR WRITTEN CONSENT, SELLER DISCLAIMS ALL LIABILITY FOR ANY DAMAGE, INJURY OR CONTAMINATION, AND BUYER SHALL INDEMNIFY AND HOLD SELLER, ITS OFFICERS, AGENTS, EMPLOYEES, SUCCESSORS, ASSIGNS AND CUSTOMERS HARMLESS FROM AND AGAINST ANY AND ALL SUCH LIABILITY. SELLER'S CONSENT, IF ANY, WILL BE CONDITIONED UPON ADDITIONAL TERMS AND CONDITIONS ACCEPTABLE TO SELLER.**

24. GOVERNING LAW; VENUE

a. **Governing Law.** These Terms and Conditions and the Contract shall be governed by and construed in accordance with the laws of the place where Seller is located. The rights and obligations of Seller and Buyer shall not be governed by the provisions of the United Nations Convention on Contracts for the Internal Sale of Goods.

b. **Time and Venue for Commencing Suit.** Any action by Buyer for breach of any of the terms of this Contract by Seller must be commenced within six (6) months of the alleged breach. Seller and Buyer irrevocably submit to the exclusive jurisdiction of the place where Seller is located, and Seller and Buyer waive any objection based on improper venue or forum non conveniens, for the resolution of any dispute relating to these Terms and Conditions or the Contract.

25. LAWS

a. **New or Changed Laws.** If Seller's obligations under the Contract will be increased by reason of the making or amendment after the date of Seller's Quotation of any law or any order, regulation or by-law having the force of law that will affect the performance of Seller's obligations under the Contract, the Contract price and delivery period will be adjusted accordingly and/or performance of the Contract suspended or terminated, as appropriate.

b. **Export and Import Control Laws**

Buyer shall comply, in the receipt and use of the Products and the Software, with all applicable import and export control laws, regulations, orders and requirements of the jurisdictions in which the Seller and Buyer are established and from which Products and Software are provided. Buyer shall not transfer, release, import, or export Products and/or Software in violation of such applicable laws, regulations or other legal requirements. Buyer shall provide a completed end-user certification in a form satisfactory to Seller upon Seller's request. Buyer will not re-export, divert or direct Products other than in and to the ultimate country of destination declared by Buyer and specified as the country of ultimate destination on Seller's invoice and Buyer's completed end-user certification accepted by Seller. Buyer agrees that all applicable import, export control and sanctions laws, regulations, orders and requirements, as they may be amended from time to time, including without limitation those of the United States, the European Union and the jurisdictions in which Seller and Buyer are established or from which Products, Software, Services and/or related items may be supplied, and the requirements of any licenses, authorizations, general licenses or license exceptions relating thereto will apply to its receipt and use of Products, Software, Services and related items. If Seller or Seller affiliate should fail to receive any necessary or advisable licenses, authorizations or approvals, even arising from inaction by any relevant government authority, or if any such licenses, authorizations or approvals are denied or revoked, or if there is a change in any applicable laws, regulations, orders or requirements that would prohibit Seller or Seller affiliate from fulfilling the Contract, or would in Seller's reasonable judgment otherwise expose Seller or Seller affiliate to a risk of liability under such laws, regulations, orders or requirements if it fulfilled the Contract, Seller and Seller affiliate will be relieved without penalty of all obligations under the Contract. In no event may Buyer use, transfer, release, export or re-export any such Products, Software, Services or related items in violation of such applicable laws, regulations, orders or requirements or the requirements of any licenses, authorizations or license exceptions relating thereto. In addition, Seller has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations, including but not limited to UN, U.S., UK, and European Union regulations. This Contract has been entered into on the basis that the Products are not sold, will not be re-sold, made available or in any way used in any such country in breach of Seller policies. Seller reserves the right to refuse support of any Products, Software, Services and/or related items that are in breach of this section. Any failure by Buyer to comply with this provision and all applicable laws pertaining to the importation, exportation, distribution, sales, promotion and marketing of Products, Software, Services and related items will constitute a default giving Seller the right to immediate termination of this Contract and/or the right to elect not to recognize the warranties associated with the Products, Software, Services or related items. Buyer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify and hold Seller harmless from and against any and all fines, damages, levies, costs and judgments which Seller may be required to pay. Buyer represents and warrants that it is not a party listed as a specially designated terrorist, specially designated national, and/or blocked person or party which otherwise appears on any list maintained by the U.S. Treasury Department Office of Foreign Assets

Control, U.S. Commerce Department Bureau of Industry and Security, U.S. State Department, EU or Ukin any jurisdiction designated parties' lists.

c. Integrity and Compliance with Anti-Bribery Laws

The Parties declare that all trade negotiations that led to this Contract were executed within normal, ethical, and legal business practices and that no Party to this agreement received any unethical and/or illegal personal advantage.

In the event that either Party becomes aware of an illegal or unethical personal advantage related to this Contract, even after the Contract's termination, it shall communicate it to the other Party immediately as a way of enabling appropriate investigations.

Buyer represents and warrants that (i) it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person(s) to use their influence to assist Seller in obtaining or retaining business or to benefit Seller or any other person in any way, and (ii) is in compliance and will not otherwise breach any applicable anti-bribery legislation, including but not limited to the Foreign Corrupt Practices Act of the United States, the UK Bribery Act and the Prevention of Corruption Act of India, each as amended from time to time, (iii) it is not involved in any legal proceeding related to corruption acts, (iv) it is not involved and will not engage in any practice of money laundering, terrorism and/or human rights abuses. Any breach of this obligation shall constitute a material breach of the Contract. Any breach of this section shall be grounds for immediate termination of this Contract or, at the Seller's sole discretion, the suspension of the Contract. Buyer shall protect, indemnify and hold harmless Seller and its affiliates from any claim, damages, liabilities, costs, fees and expenses incurred by Seller or its affiliates as a result of Buyer's breach.

26. WAIVER: No waiver by Seller of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, by Seller any right, remedy, power or privilege arising from these Terms and Conditions shall operate or be construed as a waiver thereof; nor shall any single or partial exercise by Seller of any waiver, right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

27. ENTIRE AGREEMENT: The Contract constitutes the entire agreement between Seller and Buyer relating to the subject matter hereof, and all prior agreements, correspondence, discussions and understandings of Seller and Buyer (whether oral or written) are merged herein and superseded hereby.

28. ATTORNEYS' FEES: Buyer agrees to pay all of Seller's costs and expenses of collection and related litigation, including but not limited to attorneys' fees and costs.

29. SALVATORY CLAUSE: The invalidity, in whole or in part, of any of the provisions of these Terms and Conditions, shall not affect the enforceability of any of the other provisions thereof.

30. APPLICABILITY: These Terms and Conditions as stated herein are effective as of April 2024 and until such time as changed by Seller.

31. DESIGNS, DIMENSIONS, WEIGHTS AND OTHER TECHNICAL INFORMATION: Due to normal Product and Software changes, the designs, dimensions, materials, components, weights, performance parameters and other technical characteristics and descriptions shown in printed and electronic catalogs, websites, and other media made available by Seller to Buyer are subject to variation. If complete accuracy is required for an application, Buyer must request additional information or certification from Seller.