

Northern Michigan Manufacturing LLC

Terms and Conditions of Sale

1. **TERMS AND CONDITIONS.** The obligations and rights of the party identified by the “sold to” on the front side hereof (“Buyer”) and Northern Michigan Manufacturing, LLC (“Seller”) shall be governed solely by these terms and conditions. The provisions of any purchase order or other writing, or course of dealing, usage of trade or other conduct, inconsistent herewith shall not constitute a part of this contract of sale. If any of the terms and conditions hereof is not acceptable to Buyer, Buyer shall notify Seller in writing within five (5) business days of Buyer’s receipt of this contract of sale. This is intended by the parties to be a final expression of their agreement and is a complete and exclusive statement of the terms and conditions of such agreement and supersedes all prior and contemporaneous promises, covenants, agreements, understandings, negotiations and discussions between the parties, whether oral or written.

2. **LIMITED WARRANTY.** Subject to the qualifications stated below, Seller warrants the products identified on the front side hereof (“Products”) will be free from defects in material and workmanship under normal use and service for a period of ninety (90) consecutive days from the date first placed in service, provided such first date of service is within two hundred seventy (270) consecutive days from the date of shipment by Seller. Seller and its representatives may, from time to time, offer recommendations and advice with respect to the use of the Products. Any such recommendations and advice are not warranties by Seller, and Buyer will act upon any such recommendations and advice at Buyer’s sole risk. Seller’s liability and Buyer’s exclusive remedy for any claims arising out of the Products sold hereunder shall be limited to replacement or repair of nonconforming goods or payment in an amount not to exceed the purchase price therefor, at Seller’s option. Seller’s approval must be obtained before any warranty service is performed by Buyer or any third party.

Except for defects in workmanship as described in the preceding paragraph, the foregoing warranty does not apply to the extent a Product that has been manufactured by Seller (i) is based on a design specified by Buyer, (ii) utilizes materials provided by Buyer, and/or (iii) utilizes materials either specified by Buyer or required by Buyer to be purchased by Seller from a supplier specified by Buyer.

THE FOREGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY FITNESS FOR A PARTICULAR PURPOSE AND/OR NON-INFRINGEMENT. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES OR EXPENSES OF ANY KIND, INCLUDING LOSS OF INCOME OR PROFITS OR GOODWILL, ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT OR WITH THE USE OR DELIVERY OF PRODUCTS FURNISHED HEREUNDER.

3. **PRICES AND TERMS OF SALE.** The prices and terms of sale stated herein are FOB Seller's Facility for sales requiring shipment of goods to a location in the U.S.A., unless otherwise indicated on Seller's Order Acknowledgment and/or invoice. Such prices are subject to increase by Seller (i) for any order change made by Buyer and approved by Seller, and (ii) with respect to multiple orders pursuant to a single purchase order, for any order confirmed after a general price increase made by Seller.

4. **FORCE MAJEURE.** Seller shall not be liable for any delay in performance or nonperformance on the part of Seller directly or indirectly caused by fire, explosion, accidents, flood, labor trouble or shortage, war, act or regulation of any government, inability to obtain suitable material, equipment, fuel, power or transportation, act of God or otherwise arising from contingencies, happenings or causes beyond the commercially reasonable control of Seller. Quantities so affected by any such circumstances may be reduced by Seller without liability, but this agreement shall otherwise remain unaffected.

5. **PAYMENT.** Payment terms are net thirty (30) days after shipment unless otherwise stated on the front of Seller's Invoice. Outstanding balances not paid when due shall be subject to a late charge accruing from the date of Seller's Invoice at the rate of the lower of eighteen percent (18%) per annum or the maximum interest allowable under applicable state law on any late payments due hereunder. Failure to timely pay any Seller Invoice shall cause all subsequent Invoices to become immediately due and payable. Payment shall be made in U.S. Dollars (\$), unless otherwise agreed by Buyer and Seller.

6. **TAXES AND FEES.** Prices stated herein do not include any taxes, charges, assessments, or duties, and the amount of any thereof which Seller is required to pay or collect shall be invoiced to and payable by Buyer. Buyer shall also pay any collection fees and reasonable attorneys' fees incurred by Seller in collecting payment of the purchase price and any other amounts for which Buyer is liable under the terms and conditions hereof.

7. **SHIPMENT; RISK OF LOSS; TITLE.** Unless otherwise agreed to in writing by the parties, deliveries of the goods shall be F.O.B. Seller's Facility for sales requiring shipment of goods to a location in the U.S.A.. Seller shall place the goods in the possession of a carrier and will make a contract for their transportation as may be reasonable, having regard for the nature of the goods and generally accepted commercial standards. The Buyer shall be responsible for all expenses incurred in delivering the goods unless otherwise indicated by the governing terms of sale. Risk of loss of the goods and responsibility to insure the goods shall pass to Buyer per the governing terms of sale. Title to goods shall transfer upon Seller's satisfaction of delivery per the governing terms of sale.

8. **CANCELLATION, MODIFICATION, SUSPENSION.** Cancellation, modification, suspension, or delay in shipment of Buyer's order shall not be accepted on terms which will not fully indemnify and reimburse Seller against losses, costs and expenses arising therefrom; such indemnity to include, without limitation, recovery of all direct costs incurred and a normal profit.

9. **CREDIT APPROVAL.** Shipments, deliveries and performances of work shall at all times be subject to the approval of Seller's credit department. Seller may at any time decline to make any

shipment or delivery or perform any work except upon receipt of payment in advance or upon such other payment terms as are acceptable to Seller's credit department.

10. PROPRIETARY RIGHTS. Buyer acknowledges and agrees that it is not acquiring any right, title or license in or to Seller's intellectual property or other proprietary rights associated with any of the Products.

11. ASSIGNMENT; BINDING EFFECT. Buyer shall not assign its rights or obligations under this Agreement or any interest therein without Seller's prior written consent. Any assignment without such consent shall be void and have no force and effect. This Agreement shall be binding and inure to the benefit of the parties hereto, their successors and permitted assigns, and their legal representatives.

12. CONTROLLING LAW; JURISDICTION; LANGUAGE. This transaction shall be governed by, and this Agreement shall be construed and enforced in accordance with, the laws of the State of Michigan without regard to any principles of conflicts of laws. Any and all legal actions or proceedings shall be brought only in the courts of the State of Michigan.

13. COMPLIANCE WITH EXPORT REGULATIONS. Commodities or technology exported from the United States are in accordance with the Export Administration Regulations. Buyer understands and agrees that diversion of commodities or technology contrary to U.S. law is prohibited.

14. MISCELLANEOUS. (i) No provision of this Agreement may be amended or waived except in a writing signed by Seller and Buyer; (ii) a waiver of a breach shall not operate or be construed as a waiver of any subsequent breach; (iii) Seller may set off any amount due from Buyer, whether or not under this Agreement, against any amount which may become due to Buyer, whether or not under this Agreement; (iv) if any provision, clause or part, or the application thereof is held invalid, the remainder of this Agreement or the application if such provision, clause or part under other circumstances shall not be affected thereby; and (v) this Agreement may only be amended in writing signed by both parties hereto.