

## SUNSTAR TERMS AND CONDITIONS OF SALE

Sunstar Engineering Americas, Inc. (“Seller”) acknowledges and hereby accepts the order from you (the “Buyer”). Seller’s acceptance of your order is hereby expressly made conditional on your acceptance of Seller’s active Sales Quote issued to Buyer (which incorporates these terms and conditions, as may be amended from time to time) and acceptance of the following terms and conditions:

**1. TERMS AND ACCEPTANCE.** All sales of goods manufactured or supplied by Seller (“Goods”) shall be subject to these terms and conditions. ACCEPTANCE OF BUYER’S ORDER FOR SUCH GOODS BY SELLER IS EXPRESSLY LIMITED TO SELLER’S ACTIVE SALES QUOTE, THE TERMS AND CONDITIONS CONTAINED HEREIN, AND ANY DOCUMENTS EXPRESSLY INCORPORATED HEREIN BY SELLER’S REFERENCE. SELLER HEREBY OBJECTS TO ANY CONTRARY, DIFFERENT, OR ADDITIONAL TERMS OR CONDITIONS WHICH MAY NOW OR IN THE FUTURE APPEAR ON ANY FORM OF BUYER, INCLUDING ANY PURCHASE ORDER FORM OF BUYER, OR ANY ALTERATIONS IN THE TERMS AND CONDITIONS OF SELLER’S ACTIVE SALES QUOTE AND THIS DOCUMENT, UNLESS EXPRESSLY AGREED TO IN WRITING BY SELLER. WITH RESPECT TO BUYER’S OFFER TO PURCHASE THE GOODS, THIS DOCUMENT OR ANY OTHER ACKNOWLEDGMENT OR CONFIRMATION BY SELLER SHALL NOT OPERATE AS AN ACCEPTANCE OF BUYER’S OFFER, BUT RATHER SHALL BE DEEMED TO BE A COUNTEROFFER. Buyer’s delivery of an acknowledgment and/or acceptance of these terms, or acceptance of the Goods, whichever occurs first, shall also constitute Buyer’s consent to the terms hereof. Any reference to Buyer’s order or other communication is for convenience only and not an incorporation of the terms thereof.

**2. QUOTATION.** All prices, packaging requirements, freight terms, payment terms, and order requirements not covered in these Sunstar Terms and Conditions of Sale are defined in Seller’s active Sales Quote issued to Buyer. Any conflicts between Seller’s active Sales Quote to Buyer, these Sunstar Terms and Conditions of Sale, and any document submitted or provided by Buyer shall be controlled by these Sunstar Terms and Conditions of Sale. Seller will fill Buyer’s submitted orders for the price stated on Seller’s active Sales Quote, subject to an annual price adjustment, if any, either up or down. If agreed upon by Buyer and Seller, such annual price adjustments will be made to correspond to Buyer’s fiscal year. Otherwise, annual price adjustments will be made on the first of April each year. Buyer will issue purchase orders and releases to reflect such changes agreed to by Buyer and Seller. Seller understands the goal is to maintain price levels to Buyer as stable as possible.

**3. TERMS OF PAYMENT.** Except as may otherwise be provided in accordance with Section 2 hereof, payment terms for Goods are stated on Seller’s active Sales Quote to Buyer. Unless expressly stated on Seller’s active Sales Quote, prices do not include any additional costs, including, but not limited to, carriage and delivery costs, insurance, taxes, and costs associated with the importation/exportation of the Goods, all of which additional costs are the sole responsibility and expense of Buyer. Payment is to be made in U.S. dollars, with all associated bank charges to be paid by Buyer. Remittances marked to indicate payment in full will be deposited with the full reservation of all of Seller’s rights notwithstanding such markings, and such deposit shall not indicate Seller’s acceptance of the remittance as payment in full unless the remittance actually constitutes payment of all sums owed. Buyer’s obligations of payment pursuant to the contract arising from this document do not cease until the full purchase price has been remitted to, and is at the free disposal of, Seller at the location specified by Seller for payment. Payments shall be made in accordance with all terms set forth in this document without any deductions, including, but not limited to, deductions for discounts, expenses or taxes of any kind, or for any alleged damages or claims arising under the contract arising from this document or any other agreement of the parties. In the event that Buyer shall fail to pay any part of the purchase price when due, Seller may, at its option, defer or cancel further shipments of the Goods. Additionally, Seller shall assess interest to any portion of any payment not made in accordance with any terms and conditions specified in this document at a rate determined by Seller in an amount equal to or greater than Seller’s cost of borrowing. Payment of such interest does not relieve Buyer of its obligations pursuant to the contract arising from this document or any other agreement of Buyer and Seller. Collection of past due accounts may be transferred to Seller’s attorneys and all legal expenses/costs associated with collection of past due accounts are payable by Buyer.

**4. SECURITY INTEREST.** Unless and until the Goods are fully paid for, Buyer hereby grants Seller a security interest in the Goods, exercisable at the option of Seller, to secure the unpaid balance of the purchase price and all other obligations of Buyer to Seller however arising. Buyer grants Seller a power of attorney to execute and file on behalf of Buyer all necessary financing statements and other similar documents required to perfect the security interest granted herein.

**5. TRANSPORTATION AND DELIVERY; RISK OF LOSS.** For Seller's warehouse FOB shipments, all risk of damage, loss or theft shall be borne by Buyer. Seller shall ship according to the method and place of delivery established in Seller's active Sales Quote. For shipments arranged by Seller, all risk of loss shall be borne by Seller, provided that Buyer documents with the selected carrier any missing or damaged Goods upon delivery, and immediately notifies Seller of any missing or damaged Goods. Failure to provide such notifications will result in Buyer bearing the responsibility for any missing or damaged goods. While Seller will attempt to meet any delivery date requested by Buyer on Buyer's order, Seller shall not be liable for delays in manufacture or delivery due to any event beyond Seller's or its subcontractors' reasonable control, including, but not limited to: *force majeure*, fires, floods, riots, strikes, labor disputes, freight embargoes, transportation delays, shortage of labor, inability to secure fuel, materials, supplies, equipment, or power on account of shortages thereof, or governmental import, export or transit suspensions or restrictions. Delivery may be delayed if Buyer fails to timely perform any of Buyer's obligations, including but not limited to, meeting any Buyer order lead time requirements or if Buyer fails to submit or later modifies information necessary for the assembly of the Goods. Delay in delivery does not entitle Buyer to claim damages directly or indirectly attributable to such delay.

**6. CHANGES.** Buyer shall not be permitted to change any order for Goods without the prior written consent to such change by Seller, and which change, if accepted by Seller, shall be governed by the terms and conditions specified by Seller. If Seller agrees to any change, Buyer shall be responsible for any increase in price relating to the change of an order, including, but not limited to, actual costs incurred towards completion of the original order.

**7. CERTIFICATIONS.** Buyer accepts that Seller does not maintain ISO quality certifications and is not required by Buyer to receive ISO quality certifications from Seller's subcontractors.

**8. LIMITED WARRANTY; DISCLAIMERS; LIMITATION OF LIABILITY AND REMEDIES.** Seller warrants that the Goods conform to all applicable specifications. All claims made in accordance with the terms of this warranty for alleged defects in the manufacture of the Goods with respect to the conformity to such specifications, and any right of rejection or revocation of acceptance of the Goods are waived if (a) Buyer fails to give Seller notice of any claim immediately after discovery of the claimed defect, or (b) Buyer has used the Goods or done any other act inconsistent with rejection or revocation of acceptance. Seller shall determine at Seller's sole discretion if the Goods conform to the applicable specifications by comparing Seller's retain sample with a sample of Buyer's rejected Goods. Buyer has the right to participate in testing at Seller's lab. Due to the nature of the properties of the Goods to change under adverse environmental storage and use conditions, if the Seller's retain meets the applicable specifications, the Goods will be deemed acceptable unless the Seller establishes a defect in the Buyer's sample that is caused by Seller. Buyer's sole and exclusive remedy in cases of delivery of defective Goods is governed by the warranty provision set forth herein, and Seller must give written authorization before any Goods may be returned to Seller. In some cases it is illegal for the Buyer to return defective goods to the Seller. Provided that inspection by Seller verifies the Goods to not meet the applicable specifications, **BUYER'S SOLE AND EXCLUSIVE REMEDY PURSUANT TO ANY CLAIM OF ANY KIND ARISING OUT OF OR CONNECTED WITH ANY ORDER FOR PURCHASE OF GOODS, INCLUDING, BUT NOT LIMITED TO A CLAIM IN CONTRACT, WARRANTY, OR TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR STRICT LIABILITY), STATUTORY OR REGULATORY PROVISIONS, INDEMNITY, CONTRIBUTION, OR OTHERWISE IS, AT SELLER'S OPTION, (i) THE REPLACEMENT OF THE DEFECTIVE GOODS OR PORTIONS THEREOF, OR (ii) A REFUND OR CREDIT OF ALL OR A PORTION OF THE PURCHASE PRICE AND THE COST OF DISPOSAL AND TRANSPORTATION OF THE DEFECTIVE GOODS.** Buyer further agrees that any accommodation to Buyer by Seller for any reason shall not be taken to establish any liability of Seller or any contract term inconsistent herewith. **THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR CUSTOM, INCLUDING, BUT**

**NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND WHATSOEVER (INCLUDING ATTORNEYS' FEES), ARISING OUT OF THE SALE OF GOODS TO BUYER OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, LOSSES OR DAMAGES ARISING OUT OF CLAIMS FOR LOSS OF BUSINESS, GOODWILL, PROFITS, OR ARISING OUT OF THIRD PARTY ACTIONS, REGARDLESS OF WHETHER SUCH THIRD PARTY ACTIONS, OR OTHER CLAIMS, LOSSES, OR DAMAGES, WERE REASONABLY FORESEEABLE TO BUYER OR SELLER, AND BUYER HEREBY WAIVES FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS ANY SUCH CLAIMS AGAINST SELLER.** All information, materials, and recommendations for use about the Goods are for informational purposes only, and do not constitute a warranty of any kind by Seller. Buyer acknowledges and agrees that Buyer has independently determined the suitability of the Goods for Buyer's purposes, and Buyer assumes all risk and liability resulting from the use of the Goods. Seller is under no obligation to review or question any information provided by Buyer with respect to the Goods, and expressly disclaims any damages resulting from inaccurate or incomplete information provided by Buyer. The warranty set forth herein cannot be changed or modified, whether by course of dealing, custom, trade or otherwise, unless agreed to in writing by an officer of Seller.

**9. INDEMNIFICATION BY BUYER.** Buyer shall defend or settle, at its own expense, any and all claims made against Seller, its officers, directors, agents, or employees, and shall indemnify Seller, its officers, directors, agents, and employees, and hold the same harmless, from any and all loss, expense, damage, liability claims or demands, either at law or in equity, that the Goods sold by Seller to Buyer constitute an infringement of any patent, copyright, trademark, unfair competition or other similar law (the "Infringement Claim") to the extent that the Infringement Claim arises from the design or manufacture of the Goods pursuant to Buyer's design, instructions, or specifications.

**10. DEFAULT.** If Buyer defaults in performing any of its obligations to Seller under this contract or otherwise, Seller may, at its option and without incurring any liability thereby, elect to cancel the contract arising from this document and/or to cancel any or all other agreements with Buyer, and pursue all available legal and equitable remedies. If Buyer shall be insolvent or cease doing business or be the subject of any proceedings under any bankruptcy, insolvency, or reorganization statute or law, such act shall, at the option of Seller, be deemed a default under this contract, and Seller may elect to cease performing and cancel the contract arising from this document with respect to any Goods not delivered or received prior to the election, and pursue all available legal and equitable remedies, including, but not limited to, the right to accelerate any unpaid balance owed by Buyer whether or not resulting from this contract.

**11. GOVERNING LAW; JURISDICTION.** Any controversy arising out of or related to this document or the contract arising from this document shall be construed and governed by the laws of the State of Ohio, regardless of principles of conflicts of law. Any action arising from or related to this contract shall be instituted and litigated in any federal or state court located in Montgomery County, Ohio. The parties hereby irrevocably consent to the jurisdiction of the courts of Montgomery County, Ohio.

**12. NOTICES.** Any required notices shall be delivered by hand or sent by courier, facsimile, or postage prepaid certified or registered mail at the addresses provided on the face hereof, and shall be deemed effective on the earlier of five (5) business days after having been sent or the date of actual receipt. Either party may change its address for notice by giving written notice to the other party of the change.

**13. MISCELLANEOUS.** This document, along with Seller's active Sales Quote, sets forth the entire understanding and agreement of the parties in respect of the subject matter hereof. No provisions shall be waived, changed, or rescinded except by a writing signed by the party to be charged. No failure to enforce, or waiver of any breach of, any provision of this document shall constitute a waiver of any other provision or shall constitute an amendment or modification of this document or the contract arising from this document. If any provision of this document shall be held to be unenforceable such holding shall not affect the enforceability of any other provision of this document. No right or interest in the contract arising from this document may be assigned by Buyer, and no delegation of any obligation owed by Buyer shall be made. Any purported assignment or delegation in violation of this provision shall be void. The provisions of this document otherwise shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.