

SW North America, Inc.
30160 Lyon Industrial Court
New Hudson, MI 48165
(THE “SELLER”)

SALES TERMS AND CONDITIONS

1. TERMS AND CONDITIONS: All descriptions, quotations, proposals, offers, acknowledgments, acceptances, and sales of Seller’s products and services are subject to and shall be governed exclusively by the terms and conditions stated herein and on Seller’s Order Confirmation. An offer or proposal is not binding upon Seller until executed by a duly authorized representative of Seller. Any terms or conditions, in addition to or inconsistent with those stated herein or on Seller’s Order Confirmation, proposed by Buyer are hereby objected to and rejected by Seller. No such additional, different, or inconsistent terms and conditions shall become part of the contract between the Buyer and Seller unless expressly agreed to in writing by Seller.

Acceptance or utilization of Seller’s products, including, but not limited to Seller’s Machining Centers, Automation and Machining Systems, Turnkeys, Tooling and/or Spare Parts (“Products”) or services, shall constitute agreement to all terms and conditions set forth herein and on Seller’s Order Confirmation. Seller reserves the right to reject any or all orders for Products and services, and in no event shall Seller be obligated to provide Products or services pursuant to any offer to purchase, whether made by Buyer or otherwise.

If Seller accepts, in writing, the Buyer’s additional, different, or inconsistent terms and conditions or Buyer changes the terms of its order, then Seller shall have the right to reengineer and requote all Products and services.

In case there is a conflict between the terms and conditions set forth herein and Seller’s Order Confirmation, the terms and conditions of Seller’s Order Confirmation shall govern.

2. MODIFICATIONS TO PRODUCTS AND SERVICES: Seller may, at its discretion, modify the Products and services at any time prior to delivery or performance, provided that the changes meet or exceed the originally agreed upon specifications of the Products or services. Seller is not obligated to make any modifications to Products and services that have already been delivered or for services that have been performed.

3. PAYMENT:

Buyer agrees to Net 30 payment terms for all spare part and service orders. Net 30 is defined as thirty calendar days after date of invoice.

Buyer shall pay for all other Products pursuant to the terms set forth in Seller’s Order Confirmation.

If Seller’s payment terms are not set forth in Seller’s Order Confirmation, then Buyer shall pay as follows:

- 30% of the purchase price immediately after the receipt of Seller’s invoice for the first partial payment;
- 30% of the purchase price at the earlier of four months after the conclusion of the Base Machine Test (as set forth in section 5 herein) or, , the conclusion of the Preliminary Test (as set forth in section 6 herein) at Seller’s facility, whichever occurs first;
- 30% of the purchase price immediately after the Seller notifies Buyer, in writing, that the Products are ready for delivery to Buyer;
- 10% balance upon the acceptance by Buyer at the Buyer’s facility or the successful completion of an agreed upon Acceptance Test (as set forth in section 7 herein) at Buyer’s facility, but no later than 120 days after delivery OR no later than Buyer’s start of production when Buyer begins to utilize Seller’s Products to manufacture saleable product for Buyer’s customer, whichever occurs first.

All costs and expenses incurred by Seller as a result of nonpayment or delinquent payment by Buyer, including collection costs, interest, and reasonable attorneys’ fees shall be paid by the Buyer. Amounts past due shall be subject to an interest charge equal to the prime commercial loan rate for short term loans as then quoted by “The Wall Street Journal” as of the date of default.

4. DELIVERY: All Products and services will be ExWorks Seller’s facility in New Hudson, Michigan, unless otherwise stated on the face of Seller’s Order Confirmation. Unless otherwise set forth in Seller’s Order Confirmation, risk of loss shall pass to Buyer at ExWorks Seller’s facility. Shipments will not be insured except at Buyer’s written request and expense. Title shall pass to Buyer after Seller receives final payment for the Products. Partial shipments shall be allowed. All claims for loss or damage during shipment must be made immediately by Buyer against the carrier. Any claims by Buyer for omissions or shortages in a shipment shall be waived unless Seller receives written notice thereof within ten (10) days after Buyer’s receipt of shipment. Deliveries are to be made both in quantities and at times as agreed upon in writing by Buyer and Seller. All deadlines agreed upon for delivery to Buyer do not include the time to complete installation and Acceptance Testing at Buyer. Buyer may, after obtaining written confirmation from Seller, change delivery schedules. Seller shall not be liable for any delays caused by any common carriers, riggers, shippers, customs, or event of force majeure. Any additional costs or expenses incurred as a result of change orders or delays shall be paid for by Buyer.

If specified in Seller’s Order Confirmation, Seller shall install the Products at Buyer’s facility and shall provide installation drawings before delivery of the Products. If Seller installs the Products, Buyer shall be responsible for all rigging, unloading, removal and disposal of any protective packaging, and locating of the Products at Buyer’s facility. Seller shall provide dowels, anchor

screws, and leveling pads for the installation of the Products. Buyer to complete all foundation and floor preparations including but not limited to proper underlying supportive structure, installation of dowels, anchor screws, and leveling pads and provide all electrical, low voltage Ethernet, water, and pneumatic hook ups per Seller's specifications and installation drawings.

All Buyer supplied assemblies, work holding, tooling, gauging, raw or finished work pieces, Acceptance Test materials, etc. provided late, malfunctioning or not delivered to the engineering and quality specifications as agreed upon which cause any delays to the Preliminary Test, delivery, installation or final Acceptance Test shall not be the responsibility of Seller and all costs and expenses arising therefrom shall be borne by Buyer.

5. BASE MACHINE TEST: Seller's base machining centers, without tooling or work holding devices or any Buyer provided equipment ("Base Machining Centers"), as specified by Seller in the Order Confirmation will be tested, including power sequence, dry run, and geometry check, at Seller's facility or at Seller's parent company prior to shipment. If the Order Confirmation does not require a Preliminary Test, as defined in section 6 herein, and the Base Machine Test results are within Seller's prescribed specifications, the Seller shall notify Buyer that the Products are ready for delivery and payment is due in accordance with the schedule set forth in section 3 above.

6. PRELIMINARY TEST: Before shipment to Buyer and if purchased by Buyer, a Preliminary Test of the Products, including machining centers, workholding, tooling, and, if applicable, equipment provided by Buyer, will be conducted at Seller's facility. Unless otherwise set forth in the Order Confirmation, the Preliminary Test will be performed at Seller's facility in New Hudson, Michigan. The results of the Preliminary Test conducted per the specifications as stated in Seller's Order Confirmation will be submitted, in writing, to Buyer. If the results of the Preliminary Test are within the agreed upon specifications, the Seller shall notify the Buyer that the Products are ready for delivery and payment will be due and payable in accordance with the payment schedule set forth in section 3 above. If the results of the Preliminary Test are not within the agreed upon specifications, Seller shall make the necessary modifications, re-test the modifications limited to the failed tests only, submit the test results to Buyer and, if approved by Buyer, prepare the Products for delivery to Buyer and notify Buyer payment is due and payable in accordance with the payment schedule set forth in section 3 above. Any delays in the Preliminary Test caused by delays or lack of availability of Buyer's Equipment, Raw Materials, Supplies, or other Resources as specified in Seller's Order Confirmation or a delay in Approval from the Buyer will not be the responsibility of Seller and may be billed by Seller.

7. ACCEPTANCE TEST AT BUYER'S FACILITY: An Acceptance Test at the Buyer's place of business shall be performed only if purchased by Buyer and completed to specifications as stated in Seller's Order

Confirmation. If the results of the Acceptance Test are not within the agreed upon specifications, Seller shall make the necessary modifications, re-test the modifications limited to the failed tests only, submit the test results to Buyer and, if approved by Buyer, notify Buyer payment is due and payable in accordance with the payment schedule set forth in section 3 above. Any delays in the Acceptance Test caused by delays or lack of availability of Buyer's Equipment, Facility, Raw Materials, or other Resources as specified in Seller's Order Confirmation or a delay in Approval from the Buyer will not be the responsibility of Seller and may be billed by Seller.

8. TURNKEY PROTOCOL for Preliminary and Acceptance Test: Quality and/or Cycle Time of the Turnkey Process shall be checked if provided for and purchased by Buyer at the agreed to specifications as stated in Seller's Order Confirmation. Seller will not test or check any performance of manual labor, cutting tool perishable life, wear tool or wear part life, washer cleanliness, or any other quality or performance variable other than those specified in Seller's Order Confirmation. Any cycle time tests shall have at minimum an allowable ten percent variance unless otherwise stated in Seller's Order Confirmation. All capability or quality inspection testing will require Buyer's raw material work pieces to be made to the raw material part print specifications. All inspection gauging utilized by Seller or Buyer for any qualification testing to be certified and have passed a GR&R less than 10%. NO GUARANTEE OF ANY KIND WILL BE PROVIDED BY SELLER TO BUYER FOR VOLUMETRIC THROUGHPUT, LINE UPTIME, OVERALL EQUIPMENT EFFICIENCY ("OEE"), DIRECT LABOR HEADCOUNT, MANUAL LOAD CYCLE TIME, INDIRECT LABOR HEADCOUNT, LINE PERSONNEL MANNING PLAN, TIME TO COMPLETE LINE CHANGEOVER, MAINTENANCE CYCLE TIME, PERISHABLE TOOL LIFE, LONG TERM CAPABILITY, ITEMS LABELED OR IDENTIFIED AS "ESTIMATE", "ESTIMATES", or "ESTIMATED".

Buyer shall provide at its cost all work pieces to be utilized for the testing processes.

The Preliminary Test and the Acceptance Test may include among other items, a machine capability test according to the VDMA guideline 8669 based upon a Cmk value as agreed upon in Seller's Order Confirmation. The number of work pieces to be machined per clamping position is also to be as stated in Seller's Order Confirmation and shall be evaluated during the testing process. The statistical evaluation of the clamping positions shall be considered and analyzed separately.

The formula applicable to one-sided tolerated dimensions is: $(x \text{ mean value} + 3 \times Sp) < 75\%$ of the work piece tolerances.

Seller shall check the number of features per each work piece as stated in Seller's Order Confirmation where each feature shall be agreed to before the Preliminary Test date and/or the Acceptance Test date.

The machining process as well as the tools and/or the work piece clamping fixtures shall be determined by the Seller. Buyer shall purchase the tools and other operating materials required for the specific machining of Buyer's work piece for all testing procedures from the

Seller.

The Buyer is responsible for the functionality and performance of any workholding, tools, part programming, gauging, or any and all items not purchased from the Seller and provided by the Buyer for the Preliminary Test and/or Acceptance Test.

The Preliminary Test and the Acceptance Test shall be documented by a report specifying the dates for remedying possible defects and shall be signed by the Buyer and the Seller.

The payment required after the completion of the testing protocol may only be delayed if a critical defect is found during the testing process.

The Acceptance Test shall be considered complete and successful if the test is delayed for any reason beyond the control of the Seller, or after the start of production of sellable work pieces complying with the drawings provided by the Buyer and the agreed upon specifications. Additionally, the Acceptance Test shall be considered successfully completed if the Buyer refuses to give the Seller the proper time and access to perform the corrections required.

9. RIGHT OF INSPECTION: Buyer shall have the right to inspect the Products at Seller's facility prior to delivery. Said inspection shall be conducted by Buyer at Seller's plant in New Hudson, Michigan, unless otherwise set forth on Seller's Order Confirmation. Any expenses incurred by Buyer to conduct said inspection shall be paid for by Buyer and any expenses incurred by Seller to assist or enable Buyer's request or accommodations for said inspection shall be paid for by Buyer.

10. TECHNICAL SPECIFICATIONS: Seller confirms that all Products delivered will conform to the following standards and guidelines:

EC Guidelines:

EC machine guideline 2006/42/EG

EC guideline on electromagnetic compatibility 2004/108/EG

Harmonized standards:

EN ISO 12100-1:2003/A1:2009: Safety of machines, equipment facilities

EN 12100-2:2003/A1:2009

EN 60204-1:2006/A1:2009: Electrical equipment of industrial machinery

Company Standards: Only if agreed upon after the receipt of the quotation, the Buyer shall inform the Seller of any regional, or additional regulations which must be observed. Seller shall not be liable for any additional laws or regulations which may be in effect.

11. MODIFICATIONS: Modifications to the original Purchase Order shall be permitted only if requested in writing. Seller must confirm and agree to any modifications in writing. Seller will invoice Buyer separately for any agreed upon modifications and that invoice shall be paid in full prior to shipment of the Products. Any credit due to the Buyer as a result of the modifications will be applied to the final payment referenced in section 3 herein.

12. LIMITED WARRANTY: The Seller shall be liable for all quality and workmanship defects in the first 12 months after delivery of the Products to Buyer or the successful completion of a contracted for Acceptance Test or 14 months from the date of delivery if the Acceptance Test is delayed for reasons not within the control of the Seller. The Limited Warranty period shall commence immediately upon Buyer's start of production using the Products. This Limited Warranty is not transferrable. In the event one or more of the Products delivered is defective, Seller, at its choice, shall undertake the timely repair or replacement of the defective part or shall pay direct costs, not to exceed a total dollar amount equal to 100% of the original purchase price, associated with and exclusive to the repair or replacement of the defective part, including dismantling, reassembling, labor, transportation, the provision of cranes, etc. Seller shall not be liable for any damage or malfunction of the Products that is caused by the lack of proper maintenance or misuse of the Products. **Seller's maximum liability shall be limited to the repair or replacement of the Products manufactured by Seller or one hundred percent (100%) of the total purchase price of the defective Products, whichever is less. Seller shall not be liable for any secondary, consequential, economic, indirect or incidental liability or damages such as lost general capacity, failure to meet timelines, short term internal or external capacity support, penalties, offsets, debits or "claw backs" to which Buyer may be subjected to as a direct or indirect result of the Products or services furnished under this order.**

THIS WARRANTY REQUIRES BUYER TO PURCHASE SELLER'S ONLINE MONITORING SYSTEM AS PART OF THE EQUIPMENT PURCHASE. BUYER MUST ALSO TIMELY COMPLETE ALL PREVENTIVE MAINTENANCE WITH PROPERLY TRAINED TECHNICIANS IN ACCORDANCE WITH THE APPLICABLE MAINTENANCE SCHEDULES. FAILURE TO FULFILL THESE CONDITIONS SHALL INVALIDATE THE WARRANTY.

THERE ARE NO OTHER WARRANTIES THAT EXTEND BEYOND THE ABOVE WARRANTIES, WHICH ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

SELLER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO PRODUCTS WHICH (1) HAVE BEEN REPAIRED OR ALTERED BY PERSONS OTHER THAN SELLER UNLESS EXPRESSLY AUTHORIZED IN WRITING BY SELLER, (2) ARE OPERATED OR INSTALLED CONTRARY TO SELLER'S INSTRUCTIONS, (3) ARE SUBJECTED TO MISUSE, NEGLIGENCE, OR

ACCIDENT, OR (4) HAVE A LIFE UNDER NORMAL USAGE INHERENTLY SHORTER THAN 12 MONTHS. SELLER'S OBLIGATION AND LIABILITY WITH RESPECT TO ACCESSORIES NOT MANUFACTURED BY SELLER SHALL BE LIMITED TO THOSE WARRANTIES THAT ARE EXTENDED TO SELLER BY SUCH OTHER MANUFACTURERS.

THIS WARRANTY IS LIMITED WITH RESPECT TO WORKPIECE-SPECIFIC TOOLING, ROBOTIC END OF ARM EFFECTORS, WORKHOLDING COMPONENTS, AND OTHER COMPONENTS WHICH PHYSICALLY INTERACT WITH BUYER'S WORKPIECE AND ALL COMPONENTS DESIGNED OR MANUFACTURED TO BUYER'S SPECIFICATIONS AND ARE SPECIFIED TO WEAR OR EVENTUALLY BE CONSUMED PER CUSTOMER'S APPLICATION AND WORKPIECE ("TOOLING DETAILS") AS FOLLOWS:

(1) CUTTING TOOLS, ANGLE HEADS, PROBES, GAUGES, OR ANY OTHER ITEMS LOADED INTO THE SPINDLE ARE PROVIDED "AS IS" AND ARE NOT WARRANTED BY THE SELLER. IF THIS WARRANTY EXCLUSION IS PROHIBITED BY LAW OR IF A WARRANTY IS DEEMED BY A COURT TO BE INVALID, THEN THE APPLICABLE WARRANTY PERIOD IS LIMITED TO THE EARLIER TO OCCUR OF SIX MONTHS OR ONE THOUSAND (1000) OPERATING HOURS.

(2) TOOLING DETAILS THAT PHYSICALLY INTERACT WITH BUYER'S WORK PIECE ARE NOT COVERED FOR ORDINARY WEAR AND TEAR. HOWEVER, PREMATURE WEAR THAT SUBSTANTIALLY EXCEEDS THE ORDINARY WEAR EXPECTED ON A PROPERLY MAINTAINED TOOLING DETAIL, EXCLUDING CUTTING TOOLS OF ANY KIND DURABLE OR PERISHABLE, WILL BE COVERED BY WARRANTY, BUT SUBJECT TO DEDUCTION FOR DEPRECIATION AND ORDINARY WEAR AND SUBJECT TO BUYER'S DOCUMENTED EVIDENCE THAT IT OPERATED AND MAINTAINED THE EQUIPMENT AND PROCESS WITHIN SELLER'S SPECIFICATIONS AT ALL TIMES. THE WARRANTY PERIOD ON THESE ITEMS IS LIMITED TO THE EARLIER TO OCCUR OF TWELVE MONTHS OR 2000 OPERATING HOURS.

(3) COMPONENTS DESIGNED OR MANUFACTURED TO BUYER'S SPECIFICATIONS ARE SOLD "AS IS" AND ARE NOT WARRANTED BY SELLER.

(4) TO THE EXTENT THAT TOOLING DETAILS ARE MANUFACTURED BY A THIRD PARTY AND THOSE WARRANTIES FOR THE TOOLING DETAILS ARE ASSIGNABLE UNDER THE TERMS OF A THIRD-PARTY MANUFACTURER'S WARRANTY, SELLER WILL ASSIGN SUCH TERMS AND BENEFITS OF SUCH WARRANTY TO BUYER.

13. WEAR PARTS:

Seller's limited warranty as stated in section 12 is further limited in scope with respect to the wear parts listed below. Such parts are covered for premature wear that substantially exceeds the ordinary wear expected on a properly maintained part, but subject to deduction for depreciation and ordinary wear and subject to Buyer's documented evidence that it operated the Products and process within Seller's specifications at all times. The Seller grants a warranty for these wear parts only for the operating times specified in this paragraph or for the maximum of 12 months, whichever comes first:

- Wipers in working area - 4000 operating hours
- Telescopic covers and covers in working area - 4000 operating hours
- Illumination- 1000 operating hours

The Seller shall grant a Spindle warranty only for the following operating times and load:

- Collet- 2000 operating hours
- Tool draw bar for 1.2 million clamping cycles
- Rotary coupling- 3000 operating hours
- Spindle Bearings- 8000 operating hours (depending on speed)

14. WARRANTY VOID: Seller's limited warranty as stated in section 12 shall be void and of no effect if: 1) if the Products are altered, modified or repaired by technicians who are not properly trained and accredited; 2) Buyer uses the Products in a manner not intended by Seller or in a manner not disclosed by Buyer; or 3) the damage resulted from the actions or omissions of another party or misuse of the Products.

15. TECHNICAL AVAILABILITY: Buyer and Seller agree that during the applicable Limited Warranty period but no later than twelve months after commissioning, the technical failure rate of the Machining Centers shall not exceed a maximum of 5.0% according to VDI 3423 and the terms hereof. Seller's standard for technical availability only applies to its Base Machining Centers and does not apply to its other Products or services.

This rate shall be calculated according to the following formula:

$$AT = \frac{T_A (\text{downtime caused by technical failure} \times 100\%)}{T_a (\text{planned utilization time of the machining center})}$$

Recordings shall begin upon the request of Buyer but at a point no earlier than three (3) months after commissioning of a specific machining center, and shall

end at the end of the twelfth month after commissioning.

If the calculated rate of technical failure exceeds 5.0% during the limited warranty period, the limited warranty period will be extended by one (1) month, up to a maximum of six (6) months, provided that the average calculated failure rate during the last three (3) months of the period observed is above the maximum percentage of 5.0%.

The calculation of the failure rate refers to a specific free-standing Machining Center, and is limited to only Machining Centers constructed by and supplied by Seller.

The failure rate shall be documented by measuring instruments, techniques, methods, schedules, and records accepted by Buyer and Seller. The Buyer shall provide all resources and bear all costs to complete all recordings. The Buyer bears the burden of proof that the failure rate exceeds 5.0%.

The terms as set forth in this section are subject to Buyer purchasing Seller's online monitoring system as part of the Products AND completing all preventive maintenance with properly trained technicians in accordance with Seller's provided maintenance schedules.

16. SERVICE & PARTS AVAILABILITY: The Seller shall start to remedy any defects or service request within 24 hours of receipt of a written request by the Buyer. Seller shall provide a qualified service technician or other qualified specialist in a timely manner. After any service call, the Seller shall provide the Buyer with a short protocol description of the work performed and the materials used.

Seller shall maintain the ability to provide and deliver spare parts for the Products ordered for a period of 10 years after the delivery date.

If the defect or product failure is within the warranty period listed in section 12, the Seller shall be liable for the direct costs of the service and repairs up to the cap in section 12. Otherwise all costs shall be covered by the Buyer.

Any ongoing maintenance work shall be performed by properly trained and accredited technicians. Maintenance work completed by Buyer which is out of specification or with improperly trained personnel shall void Seller's warranty.

Buyer agrees to hold Seller harmless from any damages or causes of action arising out of the negligence of Buyer, its Employees, Agents, or Third-Party Contractors while Seller's Technician, Installer, Application Engineer, or other Employee or Agent is at Buyer's place of business.

17. TAXES: Unless otherwise indicated, all prices and charges are exclusive of excise, sales, use, property, occupational, federal, state, value added tax or other taxes which may be imposed by any taxing authority upon the manufacture, sale or delivery of the Products sold hereunder. If any such taxes must be paid by Seller or if Seller is liable for collection of such tax, the amount thereof shall be added to the invoice price for the Products sold hereunder. Buyer agrees to pay all

such taxes or to reimburse Seller therefore upon receipt of Seller's invoice. If Buyer claims exemption from any taxes, Buyer shall submit to Seller a "Tax Exempt Certificate".

18. PRICING: Only written price quotations as stated in Seller's Proposals and Seller's Order Confirmations shall be binding upon the Seller **and such written price quotations shall apply only to the specific quantity and delivery schedule shown.** Seller's Proposals will be honored to their written expiration date, or in the absence of a specific date, for a period of sixty (60) days.

19. FORCE MAJEURE: Seller does not assume the risk of and shall not be liable for delay or failure to perform any of Seller's obligations by reason of circumstances beyond the reasonable control of Seller (hereinafter "Events of Force Majeure"). Events of Force Majeure shall include without limitation accidents, acts of God, strikes, labor disputes, terrorist acts, laws, rules or regulations of any government or government agency, fires, floods, delays or failures in delivery of carriers or suppliers, shortages of raw materials and parts and any other cause beyond Seller's control. Seller's performance shall be delayed during an Event of Force Majeure. Seller shall use commercially reasonable efforts to complete the performance of its obligations after the Event of Force Majeure has concluded.

20. INDEMNITY: Buyer, its officers, agents or employees, its successors and assigns, and its customers shall indemnify and hold Seller, its officers, agents and employees, shareholders and directors harmless from and against any and all claims, losses, damages (direct, indirect, consequential, secondary or incidental), liabilities, costs, and expenses, including attorneys' fees and other costs of defending any action, that Seller may sustain or incur as a result of any claim of breach of contract, tort (including negligence), breach of implied warranty, strict liability in tort or other theories of law, whether direct or indirect, arising in connection with the use of the Products and Services furnished hereunder.

21. SECONDARY LIABILITY: Seller shall not be liable for any secondary, consequential, economic, indirect or incidental liability or damages such as lost general capacity, lost profit, failure to meet timelines, short term internal or external capacity support, penalties, offset, debits or "claw backs" to which Buyer may be subjected to as a direct or indirect result of the Products or services furnished by Seller.

22. PATENTS/TRADEMARKS: Seller warrants that the Products purchased hereunder shall be delivered free of any rightful claim for infringement of any United States patent or trademark, provided however, that this warranty shall not apply with respect to claims for patent and trademark infringement to the extent that any Products purchased hereunder are: (1) manufactured to the Buyer's specifications, or (2) used in a manner not reasonably anticipated by Seller.

23. DRAWINGS, SOFTWARE AND OTHER INFORMATION: All drawings, layouts, diagrams, specifications, software and other material or information furnished to Buyer by Seller in connection with this proposal shall remain the exclusive property of the Seller and Buyer agrees to treat all such materials and information as confidential and proprietary to Seller unless written permission to the contrary is given by Seller. Seller warrants that software programs shall substantially perform as agreed by the parties; however, the parties understand and agree that minor defects in software programs may exist and are expressly excluded from Seller's warranty. Seller grants Buyer a limited, non-transferrable license to use Seller's software. Seller shall have the right to terminate this limited license if Buyer uses the Products contrary to their intended use, if Buyer modifies the software or Buyer transfers the Products without the approval of Seller.

24. WAIVER: No failure by the Seller to insist upon strict compliance with any term of the contract between the Seller and Buyer, to exercise any option, enforce any right, or seek any remedy under the contract shall constitute a waiver of Seller's rights under the contract. No custom, course of dealing or practice at variance with any provisions of the contract between the Seller and Buyer shall affect or constitute a waiver of Seller's right under the contract.

25. SEVERABILITY: If an arbitrator or court of competent jurisdiction determines that any provision of the contract between the Seller and Buyer is prohibited or invalid, such invalidity shall not affect the remaining provisions of this contract which shall remain in full force and effect.

26. ONLINE SERVICES: Seller's additional terms and conditions regarding online services shall be binding upon Buyer and as set forth on Seller's website and are incorporated herein, and made a part hereof.

27. ARBITRATION: All claims and disputes arising under or relating to the Terms and Conditions are to be settled by binding arbitration in the state of Michigan or another location mutually agreeable to Buyer and Seller. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. An award of arbitration may be confirmed by a court of competent jurisdiction.

28. ENTIRE AGREEMENT: The terms and conditions set forth herein and Seller's Order Confirmation, together with any amendments, modifications and any different terms or conditions expressly accepted by Seller in writing, shall constitute the entire agreement concerning the products sold and services provided, and there are no oral or other representations or agreements which pertain thereto.

29. GOVERNING LAW/VENUE: This agreement shall be governed by the laws of the State of Michigan without regard to conflict of law provisions. The United Nations

Convention on Contracts for the International Sale of Goods shall not apply. Buyer and Seller agree that exclusive jurisdiction and venue reside with the courts or arbitration panel in the geographic area of the Seller.

30. THIRD PARTY PERFORMANCE: Seller shall have the right to subcontract or assign work to be performed under this Agreement to an authorized subcontractor, equipment OEM, or other third party. If transferable, Seller shall pass on any third-party warranty to Buyer. Seller shall not be liable for any negligence or intentional acts or omissions or failure to perform the contracted work by a third party. **Seller's warranties, whether express or implied, shall be limited only to its Products that are designed, engineered and built by Seller. Seller disclaims all liability for goods or services that are designed, engineered or built by a third party which are incorporated into its Products or services.**

31. CAPTIONS: Captions to the various sections of this contract between Seller and Buyer are not part of the context hereof, but are labels to assist in locating those sections and shall be ignored in construing the contract.

32. INTELLECTUAL PROPERTY: The Agreement does not grant any right or license with respect to any intellectual property right, including without limitation, drawings, specifications, plans, models, samples, process, trade secret, know-how, patents, design or confidential information. Seller shall remain the exclusive owner of all intellectual property rights relating to the Products or services and Buyer shall keep as strictly confidential and shall not disclose to any third party, nor use for any purpose other than the proper performance of the Agreement, any information of whatever nature regarding the Seller and/or the Products or services.

33. RESERVATION OF TITLE: Title shall only pass to Buyer when Seller receives final payment for the Products and services.

Acceptance of these terms and conditions by Buyer, in writing or through the course of business, shall constitute a legally binding security agreement between Buyer and Seller and Seller shall have the right to file a UCC financing statement and thereby retain its ownership rights to the Products delivered to Buyer and proceeds thereof.

Additionally, Buyer agrees to assist in obtaining a subordination agreement from the proper third party if required by local or State law.

34. ADEQUATE ASSURANCES: At no charge to Seller, Buyer will provide adequate assurances of its financial viability and/or ability to perform under these sales terms and conditions within ten (10) days of a written demand by Seller. Failure to provide adequate assurances shall constitute an event of default by Buyer.

35. TERMINATION: Seller has the right to terminate this agreement or Order Confirmation “without cause” or “for convenience”, without liability to Buyer, at any time for any reason by giving written notice to Buyer. Seller shall not be responsible for any direct, indirect, consequential or other form of damages due to its termination without cause. Buyer’s sole remedy for Seller’s termination without cause shall be the return of the portion of the purchase price Buyer has already paid to Seller and the return to Buyer of any Buyer owned property already provided to Seller.

Seller has the right to terminate the contract or Order Confirmation “for cause”, without liability to Seller, upon an event of default by Buyer. “Default” means i) Buyer fails to make timely payments, ii) Buyer’s failure to comply with any terms and conditions of the contract; iii) Buyer’s failure to give Seller, upon request, reasonable assurances of Buyer’s future performance; iv) Buyer repudiates the contract; v) Buyer becomes insolvent, suspends its operations, a petition is filed or proceeding commenced by or against Buyer under any state or federal law related to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors, is adjudicated a bankrupt, liquidated or dissolved; vi) Buyer terminates “without cause” or “for convenience”; or vii) any other event which causes reasonable doubt as to Buyer’s ability to render due performance hereunder. If, after termination for default, it is determined that Buyer is not in default, the rights and obligations of the parties will be the same as if this agreement was terminated “without cause” by Seller.

If Seller terminates “for cause,” Buyer shall pay as damages: i) all completed milestones at 100% of their full value; ii) plus all actual costs incurred by Seller to complete the Products or services; and iii) Seller’s anticipated lost profits associated with the Products or services. For example, if Seller has achieved the Preliminary Machine Runoff milestone and that milestone was sixty percent (60%) of the total contractual price when Seller terminates for cause, then Buyer shall pay sixty percent (60%) of the total contractual price plus Seller’s actual costs incurred to complete the Product plus Seller’s lost profits.

Seller shall credit to Buyer’s account any standard goods and materials that can be reused exclusively by Seller, minus any restocking, shipping or other actual costs associated with reconditioning the standard materials. Seller has no obligation to provide a credit for goods that are unique to Buyer or goods that cannot be reused by Seller.

ALL ENGINEERED GOODS AND MATERIALS THAT ARE SPECIFICALLY DESIGNED FOR BUYER SHALL NOT BE RETURNABLE. ALL DIRECT AND INDIRECT LABOR HOURS REQUIRED TO COMPLETE DESIGN, ENGINEERING, PROJECT MANAGEMENT, ORDERING, ASSEMBLY, TESTING, AND ADMINISTRATION OF THE CANCELLED PRODUCT SHALL BE PAID IN FULL WITH PROFIT BY BUYER.

All claims for damages shall be paid by Buyer within

fifteen (15) days after receipt of Seller’s written cancellation.

If Buyer terminates “for cause”, then Seller shall pay as damages Buyer’s damages actually incurred up to the amount of the purchase price Buyer has already paid to Seller.

36. COMPLIANCE WITH LAWS AND EXPORT REGULATIONS: In performing its obligations under these terms and conditions, Buyer will comply and will require all of its employees and other agents involved in Buyer’s performance under the contract with all applicable federal, state, local and foreign laws, rules, statutes, regulations and ordinances.

Seller is relying upon the intended use and location of the Products and performance of services disclosed by Buyer. Buyer agrees that Seller may disclose Buyer’s intended use, intended location of the Products and performance of the services to the limited extent necessary for Seller to comply with U.S. and international importation and exportation rules, regulations, treaties and laws. Buyer shall be responsible to pay for or obtain any licenses, approvals, certifications or exemptions. Seller disclaims all liability incurred for any intended use or location not disclosed by Buyer.

Buyer shall indemnify and hold Seller harmless from and against any liability claims, demands or expenses, including attorneys’ fees, arising from or relating to Buyer’s noncompliance.

37. CLAIMS ADJUSTMENTS: Seller may at any time and without notice, set off the amount of any claim it has against Buyer due under these sales terms and conditions, order confirmation or any other agreement.

38. DAMAGES: Regardless of whether Seller terminates this contract “without cause” or “for cause”, Seller shall not be liable for any damages to Buyer, directly or indirectly, or Buyer’s customers or any third party, including but not limited to, lost or anticipated profits or business, production line shutdowns or interruption of Buyer’s or Buyer’s customer’s business, late delivery, unabsorbed overhead, interest on claims, product development, qualification, engineering or similar costs, facilities and equipment purchase or rental costs, unamortized capital expenditures, or general and administrative or burden charges or other special, incidental, consequential, direct or indirect, compensatory or punitive damages, even if Seller is advised of the possibility of such loss or damages.

Every right and remedy reserved by Seller will be cumulative and additional to any other or further remedies provided in law or equity or in these terms and conditions.