



TERMS AND CONDITIONS OF PURCHASE

1. OFFER AND ACCEPTANCE.

1.1 These Terms and Conditions of Sale (these “*Terms and Conditions*”), together with the terms of any other document to which these Terms and Conditions are attached or are incorporated into (collectively, this “*Agreement*”), apply to and include (subject to the provisions herein with respect to inclusion): (a) any quotation, proposal, or offer to sell (“*Offer*”) made by the seller-party and its affiliates and subsidiaries (collectively, “*Seller*”) for the sale of Seller’s products and services, if any, related to such products (collectively, the “*Products*”); and (b) any purchase order or related attachments, schedules, exhibits, designs and drawings (collectively, a “*Purchase Order*”) issued by Mission Design & Automation LLC or one of its affiliates or subsidiaries (collectively, “*Buyer*”) purchasing the Products. Seller accepts, and will be deemed to be bound by, the terms of this Agreement upon the first to occur of the following: (i) Seller’s written acknowledgment of this Agreement; (ii) Buyer placing a Purchase Order with Seller; (iii) delivery of the Products by Seller pursuant to any Purchase Order or similar type of request by Buyer; (iv) acceptance of the Products by Buyer; or (v) payment for the Products by Buyer.

1.2 Seller’s acceptance is expressly limited to the terms of this Agreement, and this Agreement exclusively governs the purchase of Products by Buyer. This Agreement supersedes and excludes any terms and conditions set forth in any Offer made by Seller, or any other document issued or deemed to be issued by Seller, to Buyer (including, without limitation, Seller’s general terms and conditions of sale), all of which are expressly rejected. Any reference in this Agreement to any quotation, proposal, or offer to sell made by Seller is solely for the purpose of incorporating the description and specifications of the Products contained in such document, but only to the extent that such description and specifications do not conflict with the description and specifications contained in this Agreement. Any additional or different terms proposed by Seller, whether in Seller’s Offer or otherwise, or any attempt by Seller to vary the terms of this Agreement in any way, are expressly rejected by Buyer, are not part of this Agreement and do not apply to the purchase of Products, and are not binding on Buyer without the express prior written acceptance of such terms by Buyer’s authorized representative. Buyer and Seller expressly agree that these Terms and Conditions are accepted in good faith by both parties as the controlling and final terms and conditions for all sales by Seller to Buyer.

1.3 None of the terms, provisions or conditions of this Agreement may be modified, altered or added to except by written instrument signed by a duly authorized representative of Buyer. Any agreed upon change will be subject to an equitable adjustment in the purchase price and/or time for performance.

2. PRICE AND PAYMENT.

2.1 Price. The price of the Products is the price stated in the Purchase Order (the “*Price*”). If no price is included in the Purchase Order, the Price shall be the price set out in Seller’s published price list in force as of the date of the Purchase Order. Unless otherwise specified in the Purchase Order, the Price includes all packaging, transportation costs to the Delivery Point, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.

2.2 Payment. Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms and Conditions. Buyer shall pay all properly invoiced amounts due to Seller within 30 days after Buyer’s receipt of such invoice, except for any amounts disputed by Buyer in good faith. All payments hereunder must be in U.S. funds. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller. Seller shall continue performing its obligations under this Agreement notwithstanding any dispute over payment.

3. DELIVERY OF PRODUCTS AND PERFORMANCE OF SERVICES.

3.1 Seller shall deliver the Products in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties (the “*Delivery Date*”). If no delivery date is specified, Seller shall deliver the Products within 15 days of Seller’s receipt of the Purchase Order. If Seller fails to deliver the Products in full on the Delivery Date, Buyer may terminate this Agreement immediately by providing written notice to Seller

and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Products on the Delivery Date.

3.2 Seller shall deliver all Products to the address specified in the Purchase Order (the "**Delivery Point**") during Buyer's normal business hours or as otherwise instructed by Buyer. Seller shall pack all goods for shipment according to Buyer's instructions or, if there are no instructions, in a manner sufficient to ensure that the Products are delivered in undamaged condition. Seller must provide Buyer prior written notice if it requires Buyer to return any packaging material. Any return of such packaging material shall be made at Seller's risk of loss and expense.

3.3 Seller shall provide services to Buyer as described and in accordance with these Terms and Conditions.

3.4 Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Products, including all performance dates, timetables, project milestones and other requirements in this Agreement.

4. QUANTITY. If Seller delivers more than 100% or less than 100% of the quantity of Products ordered, Buyer may reject all Products or any excess Products. Any such rejected Products shall be returned to Seller at Seller's sole risk and expense. If Buyer does not reject the Products and instead accepts the delivery of Products at the increased or reduced quantity, the Price for the Products shall be adjusted on a pro-rata basis.

5. SHIPPING TERMS; RISK OF LOSS. Delivery shall be made to the Delivery Point. The Purchase Order number must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence and any other documents pertaining to the Purchase Order. Title and risk of loss passes to Buyer upon delivery of the Products at the Delivery Point.

6. INSPECTION AND REJECTION OF NONCONFORMING PRODUCTS. Buyer has the right to inspect the Products on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Products, and may reject all or any portion of the Products if it determines the Products are nonconforming or defective. If Buyer rejects any portion of the Products, Buyer has the right, effective upon written notice to Seller, to: (a) rescind this Agreement in its entirety; (b) accept the Products at a reasonably reduced price; or (c) reject the Products and require replacement of the rejected Products. If Buyer requires replacement of the Products, Seller shall, at its expense, within 10 days replace the nonconforming or defective Products and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Products. If Seller fails to timely deliver replacement Products, Buyer may replace them with goods from a third party and charge Seller the cost thereof and terminate this Agreement for cause pursuant to Section 134. Any inspection or other action by Buyer under this Section 6 shall not reduce or otherwise affect Seller's obligations under this Agreement, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

7. SELLER'S OBLIGATIONS REGARDING SERVICES. Seller shall: (a) before the date on which any services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of such services; (b) comply with all rules, regulations and policies of Buyer, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by Buyer to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures; (c) maintain complete and accurate records relating to the provision of the services under this Agreement, including records of the time spent and materials used by Seller in providing the services in such form as Buyer shall approve. During the term of this Agreement and for a period of two (2) years thereafter, upon Buyer's written request, Seller shall allow Buyer to inspect and make copies of such records and interview Seller personnel in connection with the provision of the services; (d) obtain Buyer's written consent prior to entering into agreements with or otherwise engaging any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any services to Buyer (each such approved subcontractor or other third party, a "**Permitted Subcontractor**"). Buyer's approval shall not relieve Seller of its obligations under this Agreement, and Seller shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Seller's own employees; provided, however, nothing contained in this Agreement shall create any contractual relationship between Buyer and any Seller subcontractor or supplier; (e) require each Permitted Subcontractor to be bound in writing by the confidentiality provisions of this Agreement and,

upon Buyer's written request, to enter into a nondisclosure or intellectual property assignment or license agreement in a form that is reasonably satisfactory to Buyer; (f) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the services; (g) ensure that all of its equipment used in the provision of the services is in good working order and suitable for the purposes for which it is used and conforms to all relevant legal standards and standards specified by the Buyer; and (h) keep and maintain any Buyer equipment in its possession in good working order and not dispose of or use such equipment other than in accordance with the Buyer's written instructions or authorization. Buyer may at any time, by written instructions and/or drawings issued to Seller (each a "**Change Order**"), order changes to the services. Seller shall within 5 days of receipt of a Change Order submit to Buyer a firm cost proposal for the Change Order. If Buyer accepts such cost proposal, Seller shall proceed with the changed services subject to the cost proposal and the terms and conditions of this Agreement. Seller acknowledges that a Change Order may or may not entitle Seller to an adjustment in the Seller's compensation or the performance deadlines under this Agreement.

8. WARRANTY.

8.1 Seller warrants to Buyer that for a period of 12 months from the Delivery Date, all Products will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications, drawings, designs, samples and other requirements specified by Buyer; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the Products by Buyer.

8.2 Seller warrants to Buyer that it shall perform the services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

8.3 The warranties set forth in this Section 8 are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Products or services with the foregoing warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section 8, Seller shall, at its own cost and expense, within 10 days (a) replace or repair the defective or nonconforming Products and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Products to Buyer, and, if applicable, (b) repair or re-perform the applicable services.

9. INDEMNIFICATION. Seller shall defend, indemnify and hold harmless Buyer and its subsidiaries, affiliates, successors or assigns and their respective directors, officers, shareholders and employees (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorneys' and professionals' fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**") arising out of or occurring in connection with the Products and services purchased from Seller or Seller's negligence, willful misconduct or breach of these Terms and Conditions. Seller shall not enter into any settlement without Buyer's prior written consent.

10. INTELLECTUAL PROPERTY. Seller shall, at its expense, defend, indemnify and hold harmless Buyer and any Indemnitee against any and all Losses arising out of or in connection with any claim that Buyer's or Indemnitee's use or possession of the Products or use of the services infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement without Buyer's or Indemnitee's prior written consent.

11. LIMITATION OF LIABILITY. Nothing in this Agreement shall exclude or limit Seller's liability for fraud, personal injury or death caused by its negligence or willful misconduct.

12. INSURANCE. During the term of this Agreement and for a period of two (2) years thereafter, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$1,000,000 with financially sound and reputable insurers. Upon Buyer's request, Seller shall provide Buyer with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in these Terms and Conditions. Seller shall provide Buyer with thirty (30) days' advance written notice in the event of a cancellation or material change in Seller's insurance policy.

Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Seller's insurers and Seller.

13. COMPLIANCE WITH LAW. Seller shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Seller shall comply with all export and import laws of all countries involved in the sale of the Products under this Agreement or any resale of the Products by Seller. Seller assumes all responsibility for shipments of Products requiring any government import clearance. Buyer may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Products.

14. TERMINATION. In addition to any remedies that may be provided under these Terms and Conditions, Buyer may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Products or Seller's delivery of the services, if Seller has not performed or complied with any of these Terms and Conditions, in whole or in part. If Seller becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, then Buyer may terminate this Agreement upon written notice to Seller. If Buyer terminates this Agreement for any reason, Seller's sole and exclusive remedy is payment for the Products received and accepted and services accepted by Buyer prior to the termination.

15. CONFIDENTIAL INFORMATION. All non-public, confidential or proprietary information of Buyer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, may be used solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section 15. This Section 15 does not apply to information that is: (a) in the public domain; (b) known to Seller at the time of disclosure, as evidenced by Seller's written records; or (c) rightfully obtained by Seller on a non-confidential basis from a third party.

16. ADVERTISING/USE OF TRADE NAMES. Except to the extent Buyer has consented in a signed writing, Seller will not advertise or publish that Seller has sold Products to Buyer or use any of Buyer's trademarks or trade names in Seller's advertising or promotional materials.

17. GENERAL TERMS.

17.1 Notices. All notices, claims and other communications to Buyer required or permitted under this Agreement will be made in writing and will be effective only upon receipt by Buyer. Seller's failure to provide any notice, claim or other communications to Buyer in the manner and within the time period specified in this Agreement will constitute a waiver by Seller of any and all rights and remedies that otherwise would have been available to Seller upon making such notice, claim or other communication.

17.2 Entire Agreement. This Agreement, including any attachments, exhibits or supplements attached hereto, and any other matter incorporated herein by specific reference, constitutes the entire agreement between Seller and Buyer with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written discussions, understandings, representations and agreements.

17.3 Waiver. No waiver by Buyer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Buyer. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

17.4 Remedies. Buyer reserves and does not waive any claims, rights and remedies that it may have under this Agreement, any other agreements between Buyer and Seller and applicable law, including the right to recover from Seller any and all damages (including incidental and consequential damages), costs or expenses (including attorneys' or other professionals' fees and labor, material and apportionable overhead costs and expenses) incurred by Buyer on account of Seller's breach of this Agreement.

17.5 Assignment. Seller may not assign this Agreement or assign or delegate its rights or obligations under this Agreement without Buyer's prior written consent. Any purported assignment in violation of this Section 17.5 will be null and void and of no force or effect.

17.6 Governing Law; Venue. This Agreement, and all related documents and matters arising out of or relating to this Agreement, are governed by, and will be construed in accordance with, the laws of the State of Michigan, without regard to any conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from applying to this Agreement or any Purchase Order. Seller and Buyer each irrevocably and unconditionally agree that the sole and exclusive forum and venue for any legal or equitable action or proceeding arising out of or in connection with this Agreement will lie in any federal or state court located in the State of Michigan and any appellate court with jurisdiction over such courts. Each party hereby irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and Seller agrees not to bring any action, litigation or proceeding in any other court.

17.7 Relationship of Parties. Seller and Buyer are independent contracting parties and nothing in this Agreement will make either party the agent or legal representative of the other for any purpose, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

17.8 No Third Party Beneficiary. Except as otherwise provided, Seller acknowledges and agrees that the rights and interests of the parties under this Agreement are intended to solely benefit Seller and Buyer.

17.9 Interpretation. For purposes of this Agreement: (a) whenever the word "including" (or any variation thereof) is used, it is deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) section headings are for convenience or reference only, and do not affect the meaning of this Agreement; and (d) any agreement, instrument, statute, law, regulation or rule defined or referred to herein shall be deemed to mean such agreement, instrument, statute, law, regulation or rule as from time to time amended, modified or supplemented, and includes, in the case of agreements and instruments, references to all attachments thereto and instruments incorporated therein. No provision in this Agreement may be construed against Buyer as the drafting party.

17.10 Survival. To the extent that any provisions of this Agreement are meant to remain valid after this Agreement has terminated, expired or otherwise ended, such provisions have continued validity even after termination.

17.11 Consultation with Counsel. BUYER AND SELLER ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE BEFORE ENTERING INTO THIS AGREEMENT AND ARE DOING SO WITHOUT DURESS, INTIMIDATION, OR COERCION AND WITHOUT RELIANCE UPON ANY REPRESENTATIONS, WARRANTIES OR COMMITMENTS OTHER THAN THOSE REPRESENTATIONS, WARRANTIES OR COMMITMENTS SET FORTH IN THIS AGREEMENT.

17.12 Jury Trial Waiver. BUYER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF BUYER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT PERTAINING TO THIS AGREEMENT.

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