

# Terms of Quotation and Sale - Goods & Services Applied Control Equipment, LLLP

These Terms govern Applied Control Equipment's quotation and any resulting Contract for Applied Control Equipment to supply Goods, Documentation, Software and Services.

These terms and conditions (Terms), the related quotation, PO, and Acknowledgment, and all documents incorporated by reference herein, bind Applied Control Equipment, LLLP, hereinafter Seller, and the customer, hereinafter Customer, and, along with any agreement incorporating these Terms by reference, constitute the entire agreement (Contract) between Customer and Seller for the provision of Goods, Documentation, Software or Services, including (except as provided in Section 11) firmware incorporated therein.

**1. QUOTATION & CONTRACT.** Seller's quotation is valid for acceptance for 30 Days after its date, unless Seller has stated a different period or withdraws it earlier. The PO must be in writing and has no effect until Acknowledgment. Seller is not obliged to accept any PO. If there are any conflicts, discrepancies or ambiguities among documents, the following order of priority applies: (1) the Acknowledgment, (2) these Terms, (3) the PO and (4) Seller's quotation. Clauses 5 and 17 of these Terms take priority over the rest of these Terms. All communications about the Contract must be in English and state the Customer PO number and Seller order number.

**2. CUSTOMER DUTIES.** Customer must in a timely manner supply the information, documents and instructions Seller reasonably needs to proceed with its Contract duties. Customer is responsible for the accuracy and completeness of all information it supplies. If Seller performs Services at Sites not belonging to Seller or to a Seller Affiliate, Customer will not require Seller or Seller Personnel to enter any agreement which imposes, waives, releases, indemnifies or otherwise limits any rights or expands any obligations in respect of Seller or Seller Personnel. Any such agreement is void. However, Seller Personnel will comply with Customer's reasonable site health, safety, security and environmental rules if copies of them are provided to Seller Personnel before they start work at Site. If the acts or omissions of Customer, Customer Personnel or Customer's other contractors delay or prevent Seller from performing a Contract duty or increase Seller's costs, Seller's deadlines will be extended and Customer will compensate Seller accordingly.

## 3. DELIVERY.

**3.1 Delivery and Performance Periods.** Delivery and performance periods begin on Acknowledgment. All delivery periods and dates stated are approximate. Seller will not be liable for any damages caused by its failure to deliver or perform on time.

**3.2 Delivery Terms.** Unless the Contract says otherwise, Seller will deliver the Goods, Documentation and Software Ex Works (EXW) the place of destination named in the Contract (Incoterms® 2020). Customer will pay for freight, packing and handling at Seller's then current rates. The point of delivery is Seller's, its Affiliate's or third party's factory or warehouse.

**3.3 Partial Shipments.** Seller may make partial shipments. Seller may ship batteries separately from the rest of the Goods. Hard copies of Documentation may be shipped separately from the Goods.

**3.4 Storage.** Seller may place Goods, Documentation or Software in a third-party warehouse chosen by Seller, at Customer's expense, if Customer, by its acts or omissions, delays their shipment. On placing Goods, Documentation or Software in the warehouse, delivery is complete and risk and title passes to Customer.

**4. TITLE & RISK.** Except as stated in Clauses 3.4 and 5: (a) Title to any Goods and Documentation sold in the United States for shipment from the United States will pass to Customer when they cross the US border; (b) Title to all other Goods and Documentation will pass to the Customer on shipment; (c) Risk of loss in the Goods and Documentation will pass to Customer under the Incoterms® 2020 Ex Works (EXW).

**5. DOCUMENTATION, SOFTWARE, FIRMWARE AND INTELLECTUAL PROPERTY.** Seller and other owners will each keep all rights, interest and title in their respective Documentation, Software and Firmware. Customer's use of Software and Firmware is governed exclusively by the Software License Agreement with Seller (or its Affiliate) if there is one or, in any other case, by the license terms of the owner. If Firmware is not governed by a separate Software License Agreement, Customer is granted a non-exclusive, license to use that Firmware in the Goods, only as incorporated in the Goods and only at the Site where the Goods are first used. Customer may only copy Documentation (with its copyright notices unchanged) as needed to install, operate, re-calibrate, de-install, maintain and repair the Goods for its reasonable internal business purposes. Unless the Contract says otherwise, Documentation will consist of one copy only of Seller's, its Affiliates', or the manufacturer's standard documents in English. Seller is only required to supply third party documents if authorised to do so by the third party. Seller may choose to supply Documentation by hard copy, by CD-ROM or other suitable media, or by download from a website.

## 6. COMPENSATION.

**6.1 Prices/Rates.** Unless the Contract says otherwise, the prices, Software license fees and rates: (a) are fixed for Goods, Documentation and Software licenses delivered and for Services performed within the period(s) stated in the Contract; (b) exclude all taxes (such as sales, value added and withholding taxes), duties, levies and similar charges. Seller will invoice all these taxes, duties, levies and charges unless it has received an appropriate exemption from Customer; (c) exclude freight, packing and handling; and (d) exclude the storage, installation, start-up and maintenance of the Goods and Software.

**6.2 Payment Terms.** (a) Customer will pay Seller: (i) in full without set-off, counterclaim or withholding (except deductions required by Law); (ii) in the currency of Seller's quotation; and (iii) within 30 days of the invoice date. (b) Seller will invoice: (i) Goods (including part shipments), Documentation and Software license fees - on delivery; (ii) Services and storage costs under Clause 3.5 - monthly in arrears. (c) Customer will pay Seller by check or direct bank transfer to the Seller bank account stated in the Contract or invoice, paid in either case from Customer's account with a bank in Customer's country. Seller may reject payment by any other method. (d) Customer waives the right to dispute any invoiced amount unless Customer tells Seller of the dispute (with detailed reasons) within 10 Days from the invoice date. All undisputed amounts are payable as set out in Clause 6.2(c). (e) Seller may end the Contract or suspend performance (including withholding shipment and suspending performance of Services) if Customer fails or, in Seller's reasonable opinion, appears likely to fail to make payment when due under the Contract or any other contract. This action will not subject Seller to any penalty or affect its other rights or relieve Customer of any of its obligations to Seller. (f) Seller may at any time demand such security for payment as Seller may think reasonable, and Customer will provide the security within 10 Days after the request. This action will not affect any other right of Seller. (g) Customer must pay all expenses (including attorneys' fees) incurred by Seller in collecting late payments, up to the maximum amounts permitted by Law. (h) If any payment owed to Seller hereunder 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 received by Seller.

**6.3 Milestone Payments.** Seller reserves the right to designate Milestone Payments where the Goods or Services are expected to exceed \$50,000.

## WARRANTIES.

**7.1 Seller warrants that:** (a) Seller will transfer title to the Goods (excluding Software and Firmware) to Customer under Clause 4; (b) Goods, Documentation and Services will conform with the Specification; (c) Goods made by Seller or its Affiliates will, under normal use and care, be free from defects in materials or workmanship; (d) Seller and its Affiliates' Personnel delivering Services are trained and will use reasonable skill and care.

**7.2 Warranty Periods.** Unless otherwise specified by Seller, the warranties in Clause 7.1 apply as follows: (a) **Goods:** until the earlier of 12 months from the first installation or 18 months from delivery (90 days from delivery in the case of consumables and PolyOil® products); (b) **Services:** for 90 days from completion of the Services; (c) **Goods repaired, replacement items and Services re-performed:** from delivery of the replacement or completion of the repair or re-performance, for 90 days or until the end of the original warranty period (if later).

**7.3 Warranty Procedure.** Clause 7.3 applies if, within the warranty period, Customer discovers any non-conformity with a warranty in Clause 7.1, tells Seller in writing and, in the case of Goods, returns the non-conforming items at Customer's cost, freight and insurance pre-paid, to the repair facility chosen by Seller. Where this Clause applies, Seller will at its sole option (a) correct any non-conforming Documents and Services; (b) repair or replace non-conforming Goods FCA (Incoterms® 2020) at the repair location; or (c) instead refund the price of the non-conforming item. The foregoing sets forth Seller's sole and exclusive liability and Customer's sole and exclusive remedies for any breach of the warranties in Clause 7.1.

**7.4 Exclusions from Warranty.** (a) The warranties in Clause 7.1(b), (c) and (d) exclude, and Customer will pay the cost of all repairs and replacements caused by, any of the following: normal wear and use; inadequate maintenance; unsuitable power sources or environmental conditions; improper handling, storage, installation, or operation; misuse or accident caused by anybody except Seller; a modification or repair not approved by Seller in writing; materials or workmanship made, provided or specified by Customer; contamination; the use of unapproved parts, firmware or software; Cyber Attack; any other cause not the fault of Seller. (b) Seller will not pay any costs relating to non-compliance with a warranty in Clause 7.1, except where agreed in writing in advance. Unless accepted in writing by Seller, Customer will pay (i) all costs of dismantling, freight, reinstallation and the time and expenses of Seller Personnel for travel under Clause 7 and (ii) all costs incurred by Seller in correcting nonconformities for which Seller is not responsible under Clause 7 and in examining items that comply with the warranties in Clause 7.1. (c) If Seller relies on wrong or incomplete information supplied by Customer, all warranties are void unless Seller agrees otherwise in writing. (d) Customer alone is responsible for the selection, maintenance and use of the Goods. (e) Resale Products carry only the warranty given by the original manufacturer. Seller has no liability for Resale Products beyond making a reasonable commercial effort to arrange procurement and shipping of the Resale Products.

**7.5 Disclaimer.** The limited warranties set out in this Clause 7 are the only warranties made by Seller and can be changed only with Seller's signed written agreement. THE WARRANTIES AND REMEDIES IN CLAUSE 7 ARE EXCLUSIVE. THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ABOUT MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANYTHING ELSE FOR ANY OF THE GOODS, SOFTWARE, FIRMWARE, DOCUMENTATION, OR SERVICES.

**8.CHANGES.** No change to the Contract applies unless agreed in writing by Seller and the Customer. Customer shall not assign its rights or obligations under the Contract without Seller's prior written consent. These Terms are subject to change by Applied Control Equipment, LLLP, at any time in its sole discretion without prior notice to Customer, with such changes effective as of March 12, 2024.

## 9. TERMINATION.

**9.1 Termination for Default and Insolvency.** (a) Either party (Injured Party) may end the Contract wholly or partly by written notice to the other (Defaulting Party), if there is an Insolvency Event or Default Event with respect to the Defaulting Party. Termination under Clause 9.1 will not affect other rights of the Injured Party. (b) A **Default Event** occurs if all the following conditions are met: (i) Defaulting Party breaches a material duty under the Contract; (ii) Injured Party sends Defaulting Party a notice identifying the breach in sufficient detail; (iii) 10 Days after receiving the notice, Defaulting Party has not corrected the breach (unless such breach cannot reasonably be corrected in 10 days); (iv) if the breach cannot reasonably be corrected in 10 Days, Defaulting Party has not acted diligently to fix the breach. (c) An **Insolvency Event** means any of the following: (i) a meeting of creditors of Defaulting Party; (ii) a proposal for an arrangement or composition with or for the benefit of creditors of Defaulting Party; (iii) a chargeholder, receiver, administrative receiver or similar person is appointed over or takes possession of material assets of Defaulting Party; (iv) a legal enforcement process is taken (and not discharged within 5 Days) against material assets of Defaulting Party; (v) Defaulting Party stops trading or cannot pay its debts; (vi) anyone gives notice of intention to appoint an administrator, or applies to court to appoint an administrator, in relation to Defaulting Party; (vii) a petition is presented (and not discharged within 20 Days) or a resolution is passed or an order made for winding-up, bankruptcy or dissolution of Defaulting Party; (viii) an event similar to any of (i) to (vii) in a jurisdiction where Defaulting Party is incorporated or resides or carries on business or has assets. (d) On termination under Clause 9.1(a), Customer will pay Seller the price of Goods, Software, Documentation and Services already delivered. If Seller was the Injured Party, Customer will also pay Seller for work in progress under Seller's then current policies and cancellation charges.

**9.2 Termination for Customer Convenience.** Customer may end the Contract in whole or in part for its own convenience only with Seller's written agreement and following Seller's then current policies and cancellation charges.

**9.3 Termination after 90 Days' Force Majeure.** Either party may end the Contract without liability by written notice to the other if performance of the Contract is delayed or prevented by a cause listed in Clause 12 for more than 90 Days in any one-year period. Customer will pay Seller for all Goods, Documentation, Software licenses and Services delivered before the notice was given and for work in progress.

## 10. CUSTOMER INFORMATION.

Seller may give its suppliers the following information for use in product registration and support and to comply with import and export control Law: (a) Customer name, address, phone number, ship-to recipient and address; (b) similar details for the end-user (if that is not the Customer); (c) primary contact name, address, phone number, and email address.

**11. INTELLECTUAL PROPERTY CLAIMS.** In Clause 11, an **Intellectual Property Claim** is a claim that Goods made or Documentation produced by Seller infringe a valid intellectual property right (including patent, copyright, design right and trade mark) of the United States or of a country where the Contract states the Goods will be used. Clause 11 applies only while Customer does all the following: (a) promptly tells Seller in writing that an Intellectual Property Claim has been threatened or filed; (b) allows Seller complete control of the defense and settlement of the claim; and (c) gives all reasonable help and cooperation requested by Seller for the defense. Seller will indemnify and defend Customer against any Intellectual Property Claim brought by legal action. Seller will only pay any final judgment or settlement resulting from the action. If the action results in an injunction against the use of any Goods or Documentation, Seller will, at its sole option and expense, provide a commercially reasonable alternative. This may include procuring for Customer the right to continue using the Goods or Documentation, or replacing them with a non-infringing item or changing them to become non-infringing or refunding their price. Seller will not be liable for infringement, and Customer will indemnify Seller, in each of these cases: (i) the infringement relates to goods not made by Seller; (ii) Seller did not design the Goods or Documentation, or Seller did not design them for use in the way or for the purpose that infringed intellectual property rights; (iii) the Customer caused the Goods or Documentation to become infringing. The foregoing does not apply to Software or Firmware.

**12. FORCE MAJEURE.** Neither party is liable for non-performance or delay due to unforeseen circumstances or causes beyond its reasonable control, including acts of God; war; armed conflict; terrorism; fire; flood; accident; weather; epidemic or pandemic; failure or interruption of public and private computer or telecommunication systems, networks, and infrastructure; Cyber Attacks; sabotage; strikes or labor disputes; civil disturbances or riots; governmental decisions, requests, restrictions, Law (including the denial, failure to issue or loss of export or re-export licenses); unavailability of or delays in transport; or shortage of materials or parts. Force Majeure does not excuse failure to make payment when due.

**13. EXPORT CONTROLS AND COMPLIANCE.** Customer and Seller will comply with all: (a) export, import and other trade compliance Laws of the territories in which Customer and Seller are established, from which the Goods, Firmware, Software, Services and any technical data are supplied or shipped, and to which the Goods, Firmware, Software, Services and any technical data will be taken or eventually used; and (b) Laws against bribery, corruption and money-laundering. Customer agrees not to use, transfer, release, export or re-export any Goods, Firmware, Software, Services or Seller-supplied technical data contrary to trade compliance Law or to any license or required government authorization. Customer will give Seller: (a) details of financial institutions and other parties involved in the transaction; (b) details of the end-destination, end-user and end-use of the Goods, Firmware, Software, Documentation and Services; (c) all information needed by Seller to (i) apply for necessary export and import licenses and government authorizations, and (ii) comply with Laws against bribery, corruption and money-laundering and Seller's policies on them; and (d) any trade compliance certification or letter of assurance requested by Seller in relation to trade compliance Law. Neither Seller nor Customer will engage in any activity that exposes the other party or an Affiliate to a risk of penalties under Laws forbidding improper payments, including bribes.

**14. LAWS AND REGULATIONS.** Both parties will comply with all Laws, except to the extent a party is prohibited from doing so based upon a conflict of Laws. The Contract does not require Seller to collect, treat, recover or dispose of anything applicable Law treats as 'waste'. If the Law on waste requires Seller to dispose of something it supplied, Customer will, if allowed by Law, pay Seller to dispose of it at Seller's standard charge. If Seller has no standard charge, Customer will pay Seller's costs incurred in the disposal (including handling, transport and a reasonable mark-up for overhead). Each party must ensure that its Personnel will, while on the premises of the other party, comply with the other party's site rules and reasonable safety and security instructions that are communicated in writing to the visitor before its arrival. Seller objects and does not agree to the application of any governmental procurement provision to the Contract.

**15. NUCLEAR AND MEDICAL END-USE, GOODS, FIRMWARE, SOFTWARE, DOCUMENTATION, SERVICES AND THE PRODUCTS OF SERVICES SUPPLIED UNDER THE CONTRACT MUST NOT BE USED (i) IN CONNECTION WITH ANY MEDICAL, LIFE-SUPPORT OR RELATED APPLICATIONS, or (ii) UNLESS OTHERWISE AGREED IN WRITING BY BOTH PARTIES AND COMBINED WITH AN EXECUTED NUCLEAR DEFENSE & INDEMNIFICATION AGREEMENT, IN CONNECTION WITH ANY NUCLEAR OR NUCLEAR-RELATED APPLICATION(S).** Regardless of whether Customer is the owner/operator of the nuclear, medical or other facility, Customer: (a) accepts all Goods, Software, Documentation, Services and products of Services with these restrictions; (b) agrees to communicate these restrictions in writing to all later buyers or users; and (c) agrees to defend and indemnify Seller and Seller Affiliates and their respective successors and assigns from all claims arising from such use of Goods, Firmware, Software, Documentation, Services and products of Services. This indemnity covers every sort of claim, including allegations of negligence, strict liability or product liability.

**16. LIMITATION OF LIABILITY.** SELLER AND ITS AFFILIATES WILL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE REMEDIES OF CUSTOMER STATED IN THIS CONTRACT ARE EXCLUSIVE. REGARDLESS OF THE TYPE OF THE CLAIM (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SELLER'S AND ITS AFFILIATES' LIABILITY TO CUSTOMER AND ITS AFFILIATES WILL NEVER EXCEED THE CONTRACT PRICE. NEITHER PARTY WILL EVER BE LIABLE FOR (A) DAMAGES FOR LOSS OR CORRUPTION OF DATA OR CYBER ATTACKS, OR (B) INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. "CONSEQUENTIAL DAMAGES" INCLUDE BUT ARE NOT LIMITED TO LOSS OF ANTICIPATED PROFITS, REVENUE, PRODUCTION OR USE AND COSTS INCURRED INCLUDING WITHOUT LIMITATION FOR CAPITAL, FUEL AND POWER, REPLACEMENT PRODUCT AND CLAIMS OF EACH PARTY'S AFFILIATES. No action, regardless of form, relating to this Contract, may be brought more than 2 years after the claim arose.

**17. APPLICABLE LAW, DISPUTES, NOTICES.** Colorado law governs the Contract and its interpretation. The parties agree to exclude any effect on that law of the 1980 United Nations' Convention on Contracts for the International Sale of Goods and, so far as legally possible, any rules which might apply the laws of another jurisdiction. The State of Colorado's courts or the U.S. federal district courts in Colorado have exclusive jurisdiction over all disputes arising out of the Contract. All notices and claims connected with the Contract must be in writing, with e-mail with confirmed receipt being acceptable.

**18. ENTIRE AGREEMENT:** The Contract, along with any agreement incorporating these Terms by reference, is the exclusive and entire agreement between the parties on its subject matter. At Acknowledgment, the Contract supersedes all previous or existing agreements, negotiations, representations and proposals, whether written, oral, express or implied, on that subject matter.

**19. DEFINITIONS.** In these Terms, **Acknowledgment** is Seller's written acceptance of the PO; **Affiliate** of an entity is any person that entity controls, is controlled by or is under common control with. **Control** of an entity means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise; **Contract** is the agreement

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between Customer and Seller for the supply of the Goods, Documentation, Software and Services. The Contract consists of: Seller's quotation, the PO, the Acknowledgement, these Terms, and all other documents contained or referred to in the agreement (See Clause 1 for the order of priority of these documents.); **Contract Price** is the total price the Customer must pay Seller for the Goods, Documentation, Services and Software licenses; **Customer** is the buyer of the Goods, Documentation, Services and Software licenses; **Cyber Attack** means cyber attack, intrusion attempt, unauthorized third party access, and other malicious activity; **Day** is any day except Saturdays, Sundays and public holidays at Seller's office named in the Contract; **Documentation** means any manuals, drawings and other documents Seller must supply with the Goods, Software and Services; **Seller** is the company which issues the Acknowledgement; **Firmware** is any firmware incorporated into Goods Seller must supply under the Contract; **Goods** are the goods Seller must supply under the Contract; **Law** is applicable law, including statutory rules and regulations, decrees, directives, orders, by-laws and ordinances having the force of law; **Personnel** is anyone who works for a party (or for an Affiliate or subcontractor of that party). It includes both employees and contract staff; **PO** is Customer's purchase order or acceptance of Seller's quotation, for the supply of the Goods, Software, Documentation and Services; **Resale Products** are Goods Seller buys from anyone except a Seller Affiliate for resale to Customer; **Services** are any services Seller must perform under the Contract; **Site** means the places identified in the Contract where the Goods are to be installed, and the Services performed; **Software** is any software Seller must supply under the Contract; **Specification** is the agreed specification of the Goods, Documentation and Services identified in the Contract or, if none is identified, Seller's standard published specification.

## 19. TERMS APPLICABLE TO ORDERS THROUGH SELLER'S E-STORE SITE.

19.1BY USING THE SITE OR PLACING AN ORDER FOR PRODUCTS THROUGH THE SITE, CUSTOMER AFFIRMS THAT CUSTOMER IS OF LEGAL AGE TO ENTER INTO THESE TERMS, AND ACCEPTS AND WILL BE BOUND BY THESE TERMS. CUSTOMER AFFIRMS THAT IF CUSTOMER PLACES AN ORDER ON BEHALF OF AN ENTITY, CUSTOMER HAS THE LEGAL AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS.

**19.2Site Eligibility.** Customer may only place an order if Customer is 18 or older. Seller is based in the United States, and the Site is intended for use by U.S. residents. If Customer accesses the Site from a location outside the United States, Customer does so at its own risk, and is responsible for compliance with all applicable laws. Customer acknowledges and agrees that by accessing the Site, Customer's information or data may be transferred, processed, stored, or otherwise collected and used in the United States.

**19.3Privacy Policy.** Seller's Privacy Policy, available at <https://www.appliedcontrol.com/privacy>, is hereby incorporated into these Terms by this reference. All information that Customer provides, or that Seller collects, in connection with Customer's use of the Site (including Customer's purchase of products through Seller's Site) is governed by such Privacy Policy, and Customer consents to all actions Seller takes with respect to such information so long as such actions are consistent with the Privacy Policy.

**19.4Accounts.** If Seller provides Customer the ability to create an account to facilitate Customer's use of the Site and Customer elects to do so, Customer's account is personal to Customer, and Customer must treat Customer's username, password, and other account credentials as confidential and not disclose them to others. Customer is responsible for all activity that occurs through Customer's account. Customer agrees to notify Seller immediately of any breach of security or unauthorized access to or use of Customer's account.

**19.5Order Eligibility.** When Customer places an order, Customer represents and warrants that Customer (a) is buying products from the Site for Customer's use only, not for commercial resale or export, unless subject to a separate written agreement between Customer and Seller; and (b) will comply with all applicable laws, rules and regulations related to Customer's purchase, receipt, possession, use, and sale of any products from the Site. Customer represents, warrants and covenants that in accessing and using the Site Customer shall comply with all applicable laws, rules, regulations and that Customer has the right to provide and use all information, content, and data that Customer provides to the Site. Customer is responsible for any unauthorized creation, collection, receipt, transmission, access, storage, disposal, use, or disclosure of personal information and other information, content, and data under Customer's control or in Customer's possession.

**19.6Order Process.** Customer will be asked to supply certain information relevant to the transaction in order to purchase products through the Site, such as a credit card number and billing address. CUSTOMER REPRESENTS AND WARRANTS THAT CUSTOMER HAS THE LEGAL RIGHT TO USE ANY CREDIT CARD(S) OR OTHER PAYMENT METHOD(S) UTILIZED IN CONNECTION WITH ANY TRANSACTION THROUGH THE SITE. Customer further represents and warrants that (a) the credit card or other payment information that Customer provides is accurate and complete; (b) charges incurred by Customer will be honored by Customer's credit card company or other payment institution; and (c) Customer will pay all charges incurred by Customer at the posted prices, including shipping and handling charges and all taxes applicable to Customer's order, if any, regardless of the tax amount quoted at the time of order. Seller may use third-party payment processors, or other third-party service providers, in order to process payments and fulfill orders. By submitting payment information to the Site, Customer grants Seller the right to provide such information to such third parties for the purpose of facilitating the completion of orders or other transactions initiated by Customer or on Customer's behalf. Payment is subject to validation and authorization by both the card company or payment processor and by Seller in order to maintain security and prevent fraud.

**19.7Site Restrictions.** Seller may update or remove content, products, or all or part of the Site at any time. Any use of the Site other than as permitted by these Terms is prohibited. Customer shall not: (a) reproduce, publish, transmit, distribute, display, modify, reverse engineer, create derivative works from, sell or participate in any sale of, or commercially exploit in any way, in whole or in part, the Site or its content; (b) use any data mining, robots or similar data gathering or extraction methods; (c) manipulate, duplicate or otherwise display the Site by using framing or similar navigational technology; (d) change or delete any proprietary notices from materials downloaded from the Site; or (e) upload onto the Site or otherwise transmit to or through the Site, any materials, content or images that may cause any harm to any person, are inappropriate, harassing, offensive, or otherwise objectionable, or that are illegal, unlawful, or otherwise destructive, including any Trojan horses, viruses, malware, or other harmful code. The Site may include content or links to other websites provided by third parties, including advertisements and sponsored links or materials provided by other users. All third-party websites, statements or opinions, and other content are provided solely for convenience. Seller is not responsible or liable to Customer or any third party, for the content or accuracy of materials, content, websites, or other resources provided by third parties or for any loss or damage that may arise from Customer's use of them. If Customer decides to access any third-party materials, content, websites or other resources through the Site, Customer does so entirely at Customer's own risk and subject to all applicable terms and conditions.

**19.8Data Security.** Seller takes steps to protect and maintain the security of Customer data and the transactions Customer makes on the Site, but Seller cannot and does not guarantee or warrant that data, files or content shared through the Site or available for download from the internet or the Site will be free of viruses or other destructive code. Customer is responsible for implementing sufficient procedures and checkpoints to satisfy Customer's particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to Seller's Site for reconstruction of any lost data.

**19.9Indemnification.** Customer agrees to defend, indemnify, and hold harmless Seller and Seller Affiliates and their respective successors and assigns from and against any liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to (a) Customer's violation of these Terms; (b) Customer's use of the Site other than as expressly authorized in these Terms; and (c) Customer's violation of any applicable laws or the rights of any other person or entity.

**19.10Notices.** Seller may provide any notice to Customer under these Terms by: (a) sending a message to the email address Customer provides, or (b) by posting it to the Site. Notices sent by email will be effective when Seller sends the email, and notices Seller provides by posting will be effective upon posting. It is Customer's responsibility to keep Customer's email address current.