1. APPLICABILITY. The sale of any and all Seller goods shall be conditioned upon, and subject to the following terms and conditions (“Terms and Conditions”) which shall form an integral part of any agreement between Buyer and Seller. Buyer’s offer or proposal, any counter offer or response made by Buyer for the sale of its goods (collectively, “Quotation”) is expressly made subject to these Terms and Conditions and none of the Terms and Conditions may be added to, modified, superseded or otherwise altered except as revised in writing by Seller. All orders for goods received by Seller shall be governed only by these terms and conditions, notwithstanding any terms or conditions included in any other order form issued by Buyer. Seller hereby objects to any terms and conditions which may be found in any purchase order, release order, or any other form issued by Buyer and hereby notifies Buyer that they are rejected. Any services of Seller that are included in and/or provided in connection with the sale of any goods (“Services”) are conditioned upon and subject to Seller’s Standard Terms and Conditions of Sale (Service) that are in effect from time to time and are incorporated by reference as if fully rewritten in these Terms and Conditions and are attached to these Terms and Conditions or are available at Seller’s website or upon request of Buyer.

2. PRICE. Prices quoted by Seller shall remain firm for a period of thirty (30) days from the date of a Quotation; provided, however, that Seller reserves the right, at any time prior to the acceptance of a Quotation by Buyer to adjust prices by providing written notice to Buyer regarding any such adjustment. Quotations provided are priced based on Buyer’s purchase of the entire scope of goods identified in a Quotation. If less than the entire scope of goods identified in a Quotation is ordered by Buyer, prices may vary. Unless otherwise stated in a Quotation, installation, commissioning, supervision and/or start-up services are not included in the price of goods to be provided by Seller. Buyer shall pay Seller to the extent of services provided, or for the quantity of goods shipped should Seller be unable for any reason to deliver or ship the entire scope of goods identified in a Quotation. Except as stated in a Quotation, taxes levied on Seller’s income including federal, state, provincial and local use, sales, property or similar taxes, and Buyer shall pay all such taxes in full or shall reimburse Seller for any such taxes paid by Seller.

3. SCOPE OF GOODS AND SERVICES. The goods and services provided by Seller pursuant to a Quotation are limited exclusively, at the express request of Buyer, to the goods expressly identified in such Quotation. As a result, Seller does not assume responsibility and/or liability for the failure to provide any other goods or Services. Modifications, additions or deletions to or from the scope referenced in a Quotation shall only be effective if evidenced in writing signed by Seller and the sale of any and all goods affected by such modification, addition or deletion shall be subject to these Terms and Conditions whether or not referenced therein. All sales of goods and Services are final.

4. PAYMENT TERMS. Unless otherwise provided in the Quotation, all Seller invoices shall be paid by Buyer within thirty (30) days of the date of invoice. If Buyer fails to timely pay invoices, Seller shall be entitled to suspend all work and deliveries and issue a late charge equivalent to the lesser of one and one half percent (1 1/2%) per month (eighteen percent (18%) per annum) or the maximum rate allowed by law on all unpaid invoices or invoices not paid in accordance with these Terms and Conditions. Buyer shall reimburse Seller for all expenses, regardless of their nature or type (including attorneys fees), related in any way to Seller’s collection of invoices not paid in accordance with these Terms and Conditions or otherwise incurred by Seller in the enforcement of these Terms and Conditions whether or not referenced therein. All sales of goods and Services are final.

5. CANCELLATION. A purchase order may be cancelled by Seller at any time if (i) Buyer fails to strictly comply with the terms governing the order, (b) Buyer becomes insolvent or makes an assignment for the benefit of creditors, (c) Buyer requests and is unable to satisfy Buyer’s costs and expenses incurred in connection with the cancellation of a Quotation or (d) Buyer breaches any of the terms and conditions contained in a Quotation. Buyer is obligated to pay to Seller the price for all goods that can be completed and shipped within thirty (30) days of the date of cancellation, all Services performed to date, all special tooling for which commitments have been made by Seller, and all of Seller’s costs, expenses and reasonable profit for work in process as of the date of cancellation.

6. CREDIT APPROVAL. All orders are subject to Buyer credit approval by Seller. Seller reserves the right to refuse shipment of any and all goods or provision of any and all Services identified in any Quotation if, at any time prior to the acceptance of a Quotation by Buyer, modify the payment terms of a Quotation or otherwise affirmatively make a contract for any goods and/or Services identified in the applicable Quotation or purchase order or if, in its sole discretion and for any reason whatsoever, Buyer requests and is unable to secure acceptable payment assurances from Buyer for the goods and/or Services identified in a Quotation or purchase order.

7. DELIVERY TERMS AND DELAYS. Unless otherwise identified in a Quotation, all shipments of goods are F.C.A. Seller’s plant, warehouse or dock, as defined by Incoterms 2010, and all risk of loss with respect to any goods shipped shall pass to Buyer when such goods are delivered to the carrier at such plant, warehouse or dock. Title to all goods shall transfer to Buyer upon Seller’s receipt of payment in full for all goods and Services provided pursuant to a Quotation and/or purchase order. Delivery of all dates for the shipment and delivery of goods and/or Services are approximate, and Seller shall not be liable for delay in or failure to make shipment and/or delivery of goods or commencement, performance or completion of Services by any identified date for any reason whatsoever. In the event of any delay, regardless of the cause, the parties shall agree upon a new date for the shipment and delivery of the goods and/or commencement, performance or completion of Services. In the event of any delay caused by Buyer, Buyer shall pay Seller for all costs and expenses incurred by Seller related to such delay. In case of Force Majeure, any reference to freight charges contained in a Quotation is an estimate. Seller is not responsible for any delays that may occur due to applicable freight charges, or any other circumstances beyond its reasonable control. Buyer incurs and shall be responsible for all costs associated with such extra costs associated with such extra freight charges. In such event Seller shall charge Buyer the additional cost incurred by Seller to ship the goods, and Buyer shall pay such additional cost upon delivery of the goods. Seller reserves the right to hold and ship, in part or whole, any order in any manner and order satisfactory to Seller without notice or objection by Buyer.

9. SECURITY INTEREST. Buyer hereby grants Seller a security interest in the goods to secure the unpaid balance of the price and all other obligations of Buyer to Seller however arising. Buyer authorizes Seller to file all necessary financing statements and other documents required to perfect the security interest granted herein and irrevocably grants Seller a power of attorney to execute any documents on behalf of Buyer relating thereto.

10. LIMITATION OF DAMAGES. SELLER SHALL HAVE NO LIABILITY TO BUYER OR ANY END USER OF GOODS OR SERVICES WITH RESPECT TO THE SALE OF GOODS OR PROVISION OF SERVICES UNDER A QUOTATION FOR LOSS FOR PROOF OF SELLER'S ANY PARTicular PURPOSE, BUYER HEREBY WAIVES ANY CLAIM THAT ANY EXCLUSIONS OR LIMITATIONS OF ANY WARRANTY PROVIDED BY SELLER DEPEND ON NOTHING BUT LIMITED TO SUITS FOR CONTRIBUTION AND/OR INDEMNITY AND ALL SUITS IN LAW, IN EQUITY, OR UNDER STATUTE, OF WHATEVER KIND OR NATURE, ON ACCOUNT OF OR IN ANY WAY ARISING OUT OF ACTS OR OMISSIONS OF BUYER'S AGENTS, CONTRACTORS, EMPLOYEES OR ANY PERSON UNDER THEIR CONTROL AND RELATING IN ANY WAY TO THE GOODS AND/OR SERVICES PROVIDED UNDER A QUOTATION OR THE EQUIPMENT RELATED THERETO, INCLUDING, BUT NOT LIMITED TO BUYER'S USE, INSTALLATION, INCORPORATION OR SELECTION THEREOF.
approval drawings to develop a Quotation and provide the goods and/or Services referenced therein. Buyer hereby assumes any and all responsibility for any inaccurate or incomplete information contained therein. TO THE EXTENT THAT BUYER PROVIDES THE DESIGN FOR ANY GOODS OR SERVICES TO BE PERFORMED BY SELLER, SELLER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS SELLER AGAINST ALL CLAIMS, SUITS, AND CAUSES OF ACTION AND FROM ALL COSTS, EXPENSES, DAMAGES AND LIABILITIES (INCLUDING BUT NOT LIMITED TO ATTORNEYS AND CONSULTANTS FEES) FOR ACTUAL OR ALLEGED INFRINGEMENT OF ANY UNITED STATES OR FOREIGN PATENT, COPYRIGHT, TRADEMARK, INTELLECTUAL PROPERTY RIGHTS, OR PROPRIETARY RIGHTS OF THIRD PARTIES BY REASON OF THE USE, SALE, MANUFACTURE, OR DESIGN OF GOODS AND/OR SERVICES COVERED BY THESE TERMS AND CONDITIONS.

15. SURVIVAL. Each section hereof intended for the benefit of Seller shall survive the delivery of the goods or expiration or termination of the Services outlined in a Quotation.

16. ENTIRE AGREEMENT. These Terms and Conditions and the applicable Quotation, together with Seller’s Standard Warranty incorporated herein by reference, represent the entire agreement between Seller and Buyer. THESE TERMS AND CONDITIONS AND THE PRICES SET OUT IN A QUOTATION SPECIFICALLY RECOGNIZE THE ALLOCATION OF THE RISKS OF PERFORMANCE OF THE PARTIES AS WELL AS THE LIMITATION OF LIABILITY AND DAMAGES AND THE RECOVERY OF COLLECTION COSTS, AND THE PARTIES EXPRESSLY AGREE THAT THESE LIMITATIONS ON REMEDIES, RESPONSIBILITY FOR COLLECTION COSTS, AND OBLIGATIONS TO INDEMNIFY ARE ESSENTIAL PARTS OF THE AGREEMENT BETWEEN THEM AND ARE SPECIFICALLY BARGAINED FOR. Any purchase order or other document issued by Buyer shall be deemed to (i) be solely for the record keeping convenience of Buyer, and (ii) confirm these Terms and Conditions and not add to, delete from, or otherwise change or modify these Terms and Conditions or those contained in a Quotation.

17. SEVERABILITY. The partial or complete invalidity of any one or more provisions of these Terms and Conditions shall not affect the validity or continuing force and effect of any other provision. If any portion of this these Terms and Conditions shall be determined to be invalid or unenforceable, that portion shall automatically be modified to the extent necessary to make it valid. Notwithstanding the foregoing, such determination of invalidity or unenforceability shall not affect any other portion of these Terms and Conditions and such other portions shall remain in full force and effect.

18. GOVERNING LAW; JURISDICTION. Any controversy arising out of or related to these Terms and Conditions, a Quotation, the provision of goods and/or Services thereunder, or any contract between Seller and the Buyer shall be construed and governed by the laws of the State of Florida and notwithstanding conflicts of law principles. Any action arising from or related to these Terms and Conditions, a Quotation, the provision or services and/or Goods thereunder, or any contract between Seller and the Buyer shall be instituted and litigated in any state court located in Volusia County, Florida, or in any federal court with jurisdiction over Volusia County, Florida. Seller and Buyer hereby irrevocably consent to the jurisdiction of the courts of Volusia County, Florida.

19. WAIVER. No waiver by Seller of any breach of any term or condition of these Terms and Conditions shall be deemed a waiver of any other breach. No delay in enforcement of rights by Seller will be deemed a waiver, and Seller’s failure to object to any provision contained in any communication from Buyer shall not be deemed an acceptance thereof or a waiver of any of these terms and conditions.

20. NUCLEAR LIABILITY. In the event that the goods and/or Services provided by Seller and/or otherwise identified in these Terms and Conditions or in a Quotation are provided, used, or otherwise employed in, on or around a facility generating and/or otherwise employing in any manner nuclear, radioactive or ionizing radiation whether as a fuel, product or any other substance, the terms and conditions of the Seller Nuclear Liability Addendum (Revision/06.01.2015) incorporated by reference as if fully rewritten herein and a copy of which is attached to the Quotation or is available at Seller’s website or upon request of Buyer.

21. NON-DESTRUCTIVE TESTING. To the extent applicable, the scope and performance of any inspection by Seller as all or part of the services utilizing Magnetic Particle Testing (MT), Magnetic Rubber Testing (MRT) and/or Liquid Penetran Testing (PT), and the preparation of the report derived therefrom, are limited to the detection of exposed surface flaws no less than 150 nanometers in diameter. MT, MRT and PT are highly sensitive to external conditions and to the characteristics of the inspected material, component, or assembly. Further, contaminations on the inspected surface may mask actual defects. As such, notwithstanding the performance of any such inspection by Seller and regardless of any representation made to the contrary, including the inspection report prepared by Seller, latent, sub-surface, and/or covered surface flaws may exist on the subject material on the date of inspection and Buyer is hereby notified of the potential existence thereof.

22. ENGLISH LANGUAGE. Buyer and Seller confirm that it is their wish that these Terms and Conditions and each Quotation as well as all other documents relating to these Terms and Conditions and each Quotation, including notices, be drawn up in English only. O Comprador e o Vendedor confirmam que é de interesse de ambos que estes Termos e Condições e cada Cotação, assim como todos os outros documentos relativos a estes Termos e Condições e cada Cotação, incluindo notificações, devem ser redigidos apenas em inglês. L’acheteur et le vendeur confirment qu’ils désirent que les présentes modalités et conditions, chaque devis ainsi que tous les autres documents connexes, y compris les avis, soient rédigés uniquement en anglais. El Comprador y el Vendedor confirman que desean que estos Términos y condiciones y cada uno de los Presupuestos/las Cotizaciones, así como todos los demás documentos relacionados con estos Términos y condiciones y con cada uno de los Presupuestos/laa Cotizaciones, incluidas las notificaciones, se.redacten únicamente en ingles.