

GENERAL TERMS AND CONDITIONS

1. **Parties:** The Purchaser of the goods or services will be referred to as "Buyer", "You" or "Your" and the supplier of the goods or services under this contract will be referred to as A&A MACHINE AND FABRICATION, LLC. OR "A&A MACHINE"

2. **Offer and Acceptance:** A&A MACHINE AND FABRICATION, LLC offers to sell and deliver products in accordance with the terms and conditions set forth herein. Acceptance of this offer is expressly limited to such terms. A&A MACHINE AND FABRICATION, LLC hereby objects to and rejects any additional or different terms proposed by Buyer, including those contained in Buyer's purchase order, unless A&A MACHINE AND FABRICATION, LLC expressly agrees to such terms in writing.

3. **Engineering Change Notice (Price Modifications):** If the scope of the order changes due to Buyer responsibility, such as design changes, material changes, scope additions or any other changes from the time the order was issued, A&A will issue an ECN (Engineering Change Notice) to Buyer for said changes that impact price and/or delivery. A&A MACHINE AND FABRICATION, LLC will only proceed with said changes upon written authorization by Buyer. Buyer shall also update the purchase order to reflect the ECN. If an agreement cannot be reached on the scope of change and prices, A&A MACHINE AND FABRICATION, LLC shall have the right to STOP work until such time an agreement is reached.

4. **Title and Delivery:** Shipments inside the U.S. shall be delivered EXW (Incoterms 2010) A&A MACHINE AND FABRICATION, LLC's shipping dock unless other terms are agreed to. Shipments outside the U.S. shall be delivered EXW (Incoterms 2010) Buyer's designated carrier. Title and liability for loss or damage shall pass to Buyer upon A&A MACHINE AND FABRICATION, LLC's delivery to Buyer's designated carrier. Any subsequent loss or damage shall not relieve Buyer from its obligations. Delivery dates are estimates. A&A MACHINE AND FABRICATION, LLC shall not be liable for any damage, losses or expenses incurred by Buyer if A&A MACHINE AND FABRICATION, LLC fails to meet the estimated delivery dates.

5. **Payment Terms:** If A&A MACHINE AND FABRICATION, LLC extends credit to Buyer, payment terms shall be net thirty (30) days after A&A MACHINE AND FABRICATION, LLC's invoice. A&A MACHINE AND FABRICATION, LLC may change or withdraw credit amounts or payment terms at any time for any reason. If the products are delivered in installments, Buyer shall pay for each installment in accordance with the above payment terms. If Buyer fails to make any payment when due, A&A MACHINE AND FABRICATION, LLC may suspend or cancel performance under any agreements in which A&A MACHINE AND FABRICATION, LLC has extended credit to Buyer. A&A MACHINE AND FABRICATION, LLC's suspension of performance may result in rescheduling delays. If, in A&A MACHINE AND FABRICATION, LLC's judgment, Buyer's financial condition does not justify the payment terms specified herein, then A&A MACHINE AND FABRICATION, LLC may terminate this contract unless Buyer immediately pays for all products that have been delivered and pays in advance for all products to be delivered. Termination in accordance with this clause shall not affect A&A MACHINE AND FABRICATION, LLC's right to pursue any other available remedies. Payments made more than thirty (30) days after A&A MACHINE'S invoice shall bear interest at the rate of 1.5% per month or 18% per annum, but not more than the highest lawful rate.

6. **Taxes:** Prices do not include applicable taxes or duties. Buyer is solely responsible for paying all applicable taxes and duties. A&A MACHINE AND FABRICATION, LLC will add sales taxes to the sales price where required by applicable law, and Buyer will pay such taxes unless Buyer provides A&A MACHINE AND FABRICATION, LLC with a duly executed sales tax exemption certificate. If Buyer is required by law to withhold any amount of tax from its payment to A&A MACHINE AND FABRICATION, LLC, Buyer shall promptly pay such amount to the appropriate tax authority and take all reasonable steps to minimize such withholding tax.

7. **Contingencies:** A&A MACHINE AND FABRICATION, LLC shall not be in breach of this contract and shall not be liable for any non-performance or delay in performance if such non-performance or delay is due to a force majeure event or other circumstances beyond A&A MACHINE AND FABRICATION, LLC's reasonable control, including but not limited to, shortages of labor, energy, fuel, machinery or materials, technical or yield failures, war, civil unrest, any government act, law or regulation, including any judicial order or decree, any communication or power failure, labor dispute, natural disaster, fire, flood, earthquake, explosion, terrorist act or Act of God. In the event of a shortage of products, A&A MACHINE AND FABRICATION, LLC may allocate, at its sole discretion, product production and deliveries.

8. Warranties and Related Remedies:

8.1 Subject to clauses 8.2, 8.3, 8.4 and 8.5, A&A MACHINE AND FABRICATION, LLC warrants "materials and workmanship" and we warrant that A&A MACHINE AND FABRICATION, LLC products will conform either to A&A MACHINE AND FABRICATION, LLC's published specifications for such product or other mutually agreed upon written specifications signed by an authorized A&A MACHINE AND FABRICATION, LLC representative. For finished products, this warranty lasts for (12) twelve months after the date the product is first installed or put into use, or (18) eighteen months after A&A MACHINE AND FABRICATION, LLC ships such products to Buyer, whichever occurs first. Notwithstanding the foregoing, A&A MACHINE AND FABRICATION, LLC shall not be liable for any defects that are caused by neglect, misuse or mistreatment by an entity other than A&A MACHINE AND FABRICATION, LLC, including improper installation or testing, or for any products that have been altered or modified in any way by an entity other than A&A MACHINE AND FABRICATION, LLC. Moreover, A&A MACHINE AND FABRICATION, LLC shall not be liable for any defects that result from Buyer's design, specifications or instructions for such products.

8.2 If any A&A MACHINE AND FABRICATION, LLC products fail to conform to the warranty set forth above, A&A MACHINE AND FABRICATION, LLC's sole liability shall be at its option to repair or replace such products, or credit Buyer's account for such products. A&A MACHINE AND FABRICATION, LLC's liability under this warranty shall be limited to products that are returned during the warranty period to the address designated by A&A MACHINE AND FABRICATION, LLC and that are determined by A&A MACHINE AND FABRICATION, LLC not to conform to such warranty. If Buyer repairs or replaces warranty item WITHOUT informing A&A, the warranty is invalid and A&A will not be held liable for any warranty cost. If A&A MACHINE AND FABRICATION, LLC elects to repair or replace such products, A&A MACHINE AND FABRICATION, LLC shall have a reasonable time to repair such products or provide replacements. Repaired or replaced products shall be warranted for the remainder of the original warranty period.

8.3 EXCEPT AS SET FORTH ABOVE, PRODUCTS ARE PROVIDED "AS IS" AND "WITH ALL FAULTS." A&A MACHINE AND FABRICATION, LLC DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING SUCH PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8.4 Buyer agrees that prior to using or distributing any systems that include A&A MACHINE AND FABRICATION, LLC products, Buyer will thoroughly test such systems and the functionality of such A&A MACHINE AND FABRICATION, LLC products as used in such systems.

8.5 Safety-Critical, Military and Automotive Applications.

A&A MACHINE AND FABRICATION, LLC products are not authorized for use in safety-critical applications (such as life support) where a failure of the A&A MACHINE AND FABRICATION, LLC product would reasonably be expected to cause severe personal injury or death, military/aerospace operations, or automotive applications unless officers of the parties have executed an agreement specifically governing such use. Buyer shall fully indemnify A&A MACHINE AND FABRICATION, LLC and its representatives against any damages arising out of the unauthorized use of A&A MACHINE AND FABRICATION, LLC products in such safety-critical applications.

Buyer is solely responsible for compliance with all legal, regulatory and safety-related requirements concerning its products and any use of A&A MACHINE AND FABRICATION, LLC products in Buyer's applications, notwithstanding any applications-related information or support that may be provided by A&A MACHINE AND FABRICATION, LLC.

9. Indemnity

YOU AGREE TO INDEMNIFY AND HOLD A&A MACHINE, AND ITS AGENTS, EMPLOYEES, PARTNERS, PARENTS, SUBSIDIARIES, INSURERS AND AFFILIATES HARMLESS FROM ANY LOSSES, COSTS, CLAIMS (INCLUDING CLAIMS OF YOUR EMPLOYEES), EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS), SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES OR DAMAGES OF EVERY NATURE AND DESCRIPTION (COLLECTIVELY "LOSSES") ARISING OUT OF OR RESULTING FROM THE A&A MACHINE'S PRODUCTS DELIVERED HEREUNDER, EXCEPT THAT YOUR OBLIGATION TO INDEMNIFY COMPANY SHALL NOT APPLY TO ANY LOSSES OR LIABILITIES ARISING FROM A&A MACHINE'S SOLE NEGLIGENCE, OR THAT PORTION OF ANY LIABILITIES THAT ARISE OUT OF A&A MACHINE'S CONTRIBUTING NEGLIGENCE ACTS OR NEGLIGENT OMISSIONS. YOU SHALL PAY ALL ATTORNEYS FEES, EXPENSES, AND COURT COSTS ARISING OUT OF ANY ACTION BY A&A MACHINE TO ENFORCE THIS INDEMNITY PROVISION.

10. Intellectual Property

10.1 In the event of an allegation that products manufactured and supplied by A&A MACHINE AND FABRICATION, LLC to Buyer directly infringe any United States patent, copyright, or trade secret; litigated to defend Buyer pursuant to clause 8.1, A&A MACHINE AND FABRICATION, LLC may, but shall not be obligated to: (i) obtain a license that allows Buyer to continue the use of the products, (ii) replace or modify the products so as to be non-infringing, but in a manner that does not materially affect the functionality of the products, or (iii) if neither (i) nor (ii) is available to A&A MACHINE AND FABRICATION, LLC at a commercially reasonable expense, then A&A MACHINE AND FABRICATION, LLC may refund to Buyer the purchase price and the transportation costs of such products without being in breach of this contract.

10.2 A&A MACHINE AND FABRICATION, LLC shall have no liability for any costs, losses or damages resulting from Buyer's willful acts, or any settlement or compromise incurred or made by Buyer without A&A MACHINE AND FABRICATION, LLC's prior written consent. A&A MACHINE AND FABRICATION, LLC shall have no obligation to defend and no liability for any costs, losses or damages, to the extent that an infringement allegation is based upon: (i) Buyer's use of the products in combination with any other product, software or equipment; (ii) Buyer's use of the products in a manner or for an application other than for which they were designed or intended, regardless of whether A&A MACHINE AND FABRICATION, LLC was aware of or had been notified of such use; (iii) Buyer's use of the products in a manufacturing or other process; (iv) Buyer's modifications to the products; (v) A&A MACHINE AND FABRICATION, LLC's compliance with Buyer's particular design, instructions or specifications; (such claims - i.e. those set forth in (i) through (v) above - are individually and collectively referred to herein as "Other Claims").

10.3 Buyer shall indemnify and hold A&A MACHINE AND FABRICATION, LLC harmless against any damages, liabilities or costs finally awarded against A&A MACHINE AND FABRICATION, LLC or agreed to by Buyer as settlement or compromise, and will defend any claim, suit or proceeding brought against A&A MACHINE AND FABRICATION, LLC insofar as such claim, suit or proceeding is based on an allegation arising from Other Claims.

10.4 THE FOREGOING STATES THE SOLE LIABILITY OF THE PARTIES FOR INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, IN REGARD THERETO.

11. Limitations and Damages Disclaimer:

11.1 **General Limitations. IN NO EVENT SHALL A&A MACHINE AND FABRICATION, LLC BE LIABLE FOR ANY SPECIAL, COLLATERAL, INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS CONTRACT OR THE USE OF THE GOODS PROVIDED HEREUNDER, REGARDLESS OF WHETHER A&A MACHINE AND FABRICATION, LLC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, COST OF REMOVAL OR REINSTALLATION, ANCILLARY COSTS TO THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, RETESTING, OUTSIDE COMPUTER TIME, LABOR COSTS, LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF USE, LOSS OF DATA, OR BUSINESS INTERRUPTION. NO CLAIM, SUIT OR ACTION SHALL BE BROUGHT AGAINST A&A MACHINE AND FABRICATION, LLC MORE THAN ONE YEAR AFTER THE RELATED CAUSE OF ACTION HAS OCCURRED.**

11.2 **SPECIFIC LIMITATIONS. A&A MACHINE AND FABRICATION, LLC'S SOLE LIABILITY UNDER THIS CONTRACT SHALL BE AT ITS OPTION TO REPAIR OR REPLACE PRODUCTS, OR CREDIT BUYER'S ACCOUNT FOR SUCH PRODUCTS. IN NO EVENT SHALL A&A MACHINE AND FABRICATION, LLC'S AGGREGATE LIABILITY FROM ANY WARRANTY, INDEMNITY, OR OTHER OBLIGATION ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT, OR ANY USE OF ANY A&A MACHINE AND FABRICATION, LLC PRODUCT PROVIDED HEREUNDER, EXCEED THE TOTAL AMOUNT PAID TO A&A MACHINE AND FABRICATION, LLC FOR THE PARTICULAR UNITS SOLD UNDER THIS CONTRACT WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. THE EXISTENCE OF MORE THAN ONE CLAIM AGAINST THE PARTICULAR UNITS SOLD TO BUYER UNDER THIS CONTRACT SHALL NOT ENLARGE OR EXTEND THIS LIMIT.**

11.3 BUYER UNDERSTANDS AND AGREES THAT THE FOREGOING LIABILITY LIMITATIONS ARE ESSENTIAL ELEMENTS OF THIS CONTRACT AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE MATERIAL AND ECONOMIC TERMS OF THIS CONTRACT WOULD BE SUBSTANTIALLY DIFFERENT.

12. Cancellations and Rescheduling. No cancellation or rescheduling of product by Buyer within thirty (30) days of A&A MACHINE AND FABRICATION, LLC's estimated shipping date for such product will be accepted. Any cancellation or rescheduling of product by Buyer greater than thirty (30) days before A&A MACHINE AND FABRICATION, LLC's estimated shipping date for such product will result in a charge to Buyer for progress completed to date. Such charge, if any, shall include actual costs plus margin, reasonably determined by A&A MACHINE AND FABRICATION, LLC based on factors including, but not limited to, materials purchased, labor costs, overhead costs, production schedules and manufacturing equipment. Buyer accepts these cancellation and rescheduling terms if no written objection is received from the Buyer within ten (10) days of receiving the Sales Order Acknowledgement for the related purchase order.

13. **Non-waiver of Default:** In the event of any default by Buyer, A&A MACHINE AND FABRICATION, LLC may decline to make further shipments. If A&A MACHINE AND FABRICATION, LLC elects to continue to make shipments, A&A MACHINE AND FABRICATION, LLC's action shall not constitute a waiver of any such default or affect A&A MACHINE AND FABRICATION, LLC's legal remedies for any such default.

14. **Governing Law:** This contract shall be governed by and interpreted in accordance with the laws of the State of Texas, without reference to conflict-of-laws principles. If for any reason a court of competent jurisdiction finds any provision of this contract to be unenforceable, that provision will be enforced to the maximum extent possible to effectuate the intent of the parties, and the remainder of this contract will continue in full force and effect. Buyer agrees that non-exclusive jurisdiction for any dispute arising out of or relating to this contract lies within courts located in the State of Texas and consents to venue in Harris County, Texas. Notwithstanding the foregoing, any judgment may be enforced in any United States or foreign court, and A&A MACHINE AND FABRICATION, LLC may seek injunctive relief in any United States or foreign court.

15. Export Control:

15.1 Buyer agrees to obtain any necessary export license or other documentation prior to the exportation or re-exportation of any product, technical data, software or software source code acquired from A&A MACHINE AND FABRICATION, LLC under this contract or any direct product of such technical data, software or software source code. Accordingly, Buyer shall not sell, export, re-export, transfer, divert or otherwise dispose of any such product, technical data, software or software source code directly or indirectly to any person, firm, entity, country or countries prohibited by US or applicable non-US laws. Further, Buyer shall give notice of the need to comply with such laws and regulations to any person, firm or entity which it has reason to believe is obtaining any such product, technical data, software or software source code from Buyer with the intention of exportation. Each party shall secure, at its own expense, such licenses and export and import documents as are necessary for each respective party to fulfill its obligations under this contract. If government approvals cannot be obtained, A&A MACHINE AND FABRICATION, LLC may terminate, cancel or otherwise be excused from performing any obligations it may have under this contract.

15.2 Any product export classification made by A&A MACHINE AND FABRICATION, LLC shall be for A&A MACHINE AND FABRICATION, LLC's internal use only and shall not be construed as a representation or warranty regarding the proper export classification for such product or whether an export license or other documentation is required for the exportation of such product. This Section 15 shall survive termination of this contract.

16. **Assignment:** This contract shall not be assignable by Buyer without A&A MACHINE AND FABRICATION, LLC's prior written consent. Any unauthorized assignment shall be null and void.

17. **Entire Agreement:** This contract constitutes the entire agreement between the parties relating to the sale of the products and supersedes all previous communications, representations, or agreements, either oral or written, with respect to the subject matter hereof. No prior representations or statements relating to the sale of the products made by any A&A MACHINE AND FABRICATION, LLC representatives, which are not stated herein, shall be binding on A&A MACHINE AND FABRICATION, LLC. No addition to or modification of any provision of this contract shall be binding upon A&A MACHINE AND FABRICATION, LLC unless made in writing and signed by a duly authorized A&A MACHINE AND FABRICATION, LLC representative. No course of dealing or trade usage or course of performance shall be relevant to explain or supplement any term in this contract. These terms and conditions shall prevail notwithstanding any different, conflicting or additional terms and conditions that may appear on any purchase order or other writing not expressly incorporated herein, including but not limited to data sheets, application notes and purchase order acknowledgements. The section headings contained in this contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this contract.