



**ARCONIC FASTENING SYSTEMS AND RINGS**  
**TERMS AND CONDITIONS OF SALE**  
**(Revised 08/08/17)**

**1. Terms and Conditions:** Except as otherwise provided in a supply agreement that incorporates these terms and conditions of sales, these terms and conditions of sales (the "Terms and Conditions") shall be the sole terms and conditions governing the sale of Goods by ARCONIC GLOBAL FASTENERS & RINGS, INC. or any of its subsidiaries and affiliates doing business as Arconic Fastening Systems and Rings ("Seller") to the purchaser of such goods ("Buyer"). Except as otherwise provided in a supply agreement that incorporates these Terms and Conditions, the identity of Buyer, the identity of the goods being purchased (the "Goods"), the quantity of Goods being purchased, the destination for delivery of the Goods, and other material information concerning Buyer's order shall be set forth in Buyer's purchase order (the "Purchase Order") and provided to Seller. These Terms and Conditions are hereby incorporated into and made a part of each such Purchase Order. If Buyer and Seller are party to a supply agreement that references these Terms and Conditions, then these Terms and Conditions are incorporated into and made a part of such agreement. "Agreement" means (i) the supply agreement (if any) existing between Buyer and Seller that references these Terms and Conditions, (ii) these Terms and Conditions, and (iii) each Purchase Order accepted by Seller. All Purchase Orders placed by Buyer are subject to written acceptance or rejection by Seller. If Seller does not accept in writing a Purchase Order by Buyer, such Purchase Order shall be deemed to be rejected by Seller. No preprinted or form language appearing in Buyer's Purchase Order shall become a part of the Agreement. SELLER'S ACCEPTANCE OF ANY BUYER PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL UPON BUYER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS, AND SELLER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS, WHETHER CONTAINED IN BUYER'S PURCHASE ORDER OR OTHERWISE. SELLER WILL NOT BE DEEMED TO HAVE WAIVED THESE TERMS AND CONDITIONS OF SALE IF SELLER FAILS TO OBJECT TO PROVISIONS CONTAINED IN BUYER'S PURCHASE ORDER, OTHER FORMS OR OTHERWISE.

**2. Delivery; Title; Risk of Loss:** Unless otherwise specifically agreed in writing by Seller, all Goods are sold FCA Seller's plant (Incoterms 2010), the cost of transportation for and risk of loss to the Goods to be borne by Buyer. Title to the Goods will pass to Buyer when the Goods are picked up by Buyer at Seller's plant or when the Goods are delivered to the carrier at Seller's plant, whether the carrier is selected by Seller or Buyer.

**3. Delivery Dates & Delays:** All delivery and shipping dates are estimates only. Seller expressly reserves the right to manufacture and deliver the Goods at any time prior to the estimated delivery or shipping date. Seller will use commercially reasonable efforts to fill the Purchase Order in accordance with the estimated delivery or shipping date, but Seller will not be responsible for any delays in filling the Purchase Order nor liable for any losses or damages resulting from such delays, and the Purchase Order will not be subject to cancellation for any such delays.

**4. Government Contracts:** If Goods are for incorporation into a product for the U.S. government or another government, FAR, DFARS, and other regulatory clauses shall only apply if such provisions are accepted by Seller in writing. In the event of a conflict between any such clauses and these Terms and Conditions, these Terms and Conditions shall take precedence.

**5. Force Majeure:** Seller will not be liable for delays in filling the Purchase Order or failure in the performance of any of its obligations under this Agreement caused by accidents, labor disputes or disruptions, strikes, shortages of labor, materials, fuel or power, fires, floods or other acts of God, acts of terrorism or war, acts or omissions of Buyer, delays in transportation or lack of transportation facilities, priorities required, requested or granted for the benefit of the government, restrictions imposed by law or any rules or regulations thereunder, or any cause, whether similar to or dissimilar from those set forth above, beyond Seller's reasonable control.



**6. Payment and Prices:** Buyer will make payment pursuant to Seller's invoices at the prices and charges provided herein subject to any applicable agreement between the parties, such as any economic price adjustment clauses or other material re-pricing or surcharges. All prices and payments are in U.S. dollars. Buyer's obligation to make full and timely payment for each shipment will be without rights of set-off. The prices stated do not include state or federal excise, sales or use taxes, if any. All such taxes in effect or hereafter levied, which are applicable to the sale of the Goods, are in addition to such prices and will be paid by Buyer. Unless otherwise agreed to in writing by Seller, payment terms are net 30 days from the date of invoice. Seller retains all rights at law pertaining to the collection of unpaid amounts owed by Buyer under this Agreement, and Buyer will reimburse Seller for all costs associated with such collection activities, including reasonable attorney fees, and Seller reserves the right to charge interest on late payments. Whenever reasonable grounds for insecurity exist with respect to due payment by Buyer, Seller may demand different terms of payment and may demand assurance of due payment. Seller may, upon the making of such demand, stop production and suspend shipment hereunder. If, within the period stated in such demand, Buyer fails or refuses to agree to such different terms of payment or fails or refuses to give adequate assurance of due payment, Seller may, at its option, treat such failure or refusal as a repudiation of the portion of the Purchase Order which has not been fully performed, or may resume production and may make shipment under reservation of possession or of a security interest and may demand payment against tender of documents of title.

**7. Purchase Orders:** All Purchase Orders for Goods are subject to minimum order quantities and an extended shipment policy, as determined by Seller from time to time. Order policy and pricing are subject to change by Seller without notice.

**8. Quantity:**

(A) For fastener products, if quantities shown on packaging are based on weight counts, Seller will use commercially reasonable efforts to ensure that its weight counts are accurate. The parties agree that if the quantity of Goods, as determined by actual weight, is within five percent (5%) of the quantity shown on the packaging, Buyer shall be deemed to have received the quantity shown on the packaging, and Buyer shall pay for such amount. Any Purchase Order filled by Seller that is less than the quantity ordered by Buyer, but not less than ninety percent (90%) of the quantity ordered will be deemed to be fully filled. In such event, Seller shall notify Buyer that the Purchase Order has been filled, and Buyer shall be entitled only to the quantity of Goods provided by Seller, and shall be required to pay only for the amount actually delivered by Seller (but not for more than the amount ordered).

(B) For rings products, Seller reserves the right to under or over deliver any shipment of Goods by a margin of five percent (5%) (determined by number of pieces) and any delivery with the foregoing range will be deemed to be fully filled. In such event, Seller shall notify Buyer that the Purchase Order has been filled, and Buyer shall be entitled only to the quantity of Goods provided by Seller, and shall be required to pay only for the amount actually delivered by Seller.

**9. Inspection, Acceptance or Rejection:** Buyer will make adequate inspection of the Goods promptly after their receipt, and in any event within thirty (30) days of receipt, and will give Seller prompt written notice of any non-conformity or defect. Buyer's failure in either respect will constitute a waiver of such non-conformity or defect. Buyer must keep lot traceability records for the Goods to ensure that lots manufactured by Seller can be traced through Buyer's manufacturing and/or sales processes.

**10. Termination; Changes by Buyer:** Without liability to Buyer, Seller may terminate, in whole or in part, the Agreement and/or any Purchase Order in the event that Buyer breaches any portion of the Agreement and fails to remedy any such breach within ten days of Seller's transmission to Buyer of written notification describing the breach; provided that if Buyer fails to timely pay, the foregoing cure period shall not apply and Seller may immediately terminate, in whole or in part, the Agreement and/or any Purchase Order. Buyer may not terminate any Purchase Order without the prior written consent of Seller. If Seller consents to such termination, reasonable termination charges



computed by Seller may be assessed in connection with such termination. Any changes requested by Buyer to any Purchase Order will be subject to the consent of Seller and to an equitable price adjustment and/or delivery adjustment, as determined by Seller.

**11. Assignment:** This Agreement and any right or interest hereunder may not be assigned by Buyer without Seller's prior written consent.

**12. Warranty:** Seller warrants that the Goods sold to Buyer, at the time of shipment, will meet Seller's specifications and be free from defects in material and workmanship. Such warranty is limited to twelve (12) months from the date of shipment of the Goods to Buyer. Buyer must make a claim for breach of warranty under this Section 12 prior to expiration of the one-year warranty period, notwithstanding any longer statute of limitations. The foregoing warranty in this Section 12 will only apply to Goods that are properly installed, maintained and/or operated under normal conditions. Seller will have no liability whatsoever in respect of any defect arising from (i) Buyer's specifications, (ii) ordinary wear and tear, (iii) willful damage by Buyer or its customers, (iv) negligence on the part of Buyer or its customers, (v) abnormal working conditions at Buyer's or any of its customer's facilities, (vi) Buyer's or any of its customer's failure to follow Seller's instructions (whether oral or in writing), or (vii) Buyer's or any of its customer's misuse or alteration or repair of Goods sold hereunder without Seller's prior written approval. Seller's sole obligation and liability in the event of breach of warranty and Buyer's sole remedy, as determined by Seller, will be Seller's repayment of the amount paid for any non-conforming Goods, or repair or replacement of non-conforming Goods free of charge at Buyer's delivery point. Such repair, replacement or repayment will be made only upon return of the non-conforming Goods, which may be returned at Seller's cost only after inspection by Seller (which may be by Buyer returning a sample to Seller at Seller's request) and Buyer's receipt from Seller of definite shipping instructions and an RMA number.

**SELLER MAKES NO WARRANTY THAT THE GOODS WILL BE MERCHANTABILITY OR FIT FOR ANY PARTICULAR PURPOSE. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, EXCEPT SUCH AS IS EXPRESSLY SET FORTH HEREIN.**

**13. Excluded Damages:** In no event will Seller be liable for any incidental, consequential, indirect, special, contingent or punitive damages (including without limitation lost profits) arising out of or relating to: (i) any breach of contract or warranty, tort (including negligence or strict liability), or other theories of law with respect to the Goods sold or services rendered, or undertakings, acts or omissions relating thereto; (ii) the tender of defective or non-conforming Goods; (iii) breach of any other provision of this Agreement; or (iv) any claim of any kind arising out of or relating to any Purchase Order or Seller's performance in connection therewith. In any event, Seller's liability will not exceed the purchase price of the Goods on which such liability is based. Buyer assumes all liability for any loss, damage or injury to persons or property arising out of, connected with or resulting from the use of Seller's Goods, either alone or in combination with other products.

**14. Infringements:** For fastener products, Seller agrees to indemnify Buyer against court-assessed damages (excluding consequential damages) and costs resulting from infringement of any patents issued in the country of the Goods' origin, as well as any other intellectual property right in existence in that country at the time of Seller's acceptance of the Purchase Order to the extent such intellectual property covers the Goods. For rings products, Seller agrees to indemnify Buyer against court-assessed damages (excluding consequential damages) and costs resulting from infringement of any patents issued in the country of the Goods' origin, as well as any other intellectual property right in existence in that country at the time of Seller's acceptance of the Purchase Order to the extent such infringement is caused by the processes or techniques used by Seller in the manufacture of Goods under this Agreement. However, Seller's liability for infringements will be limited to the purchase price of the Goods raising the infringement. Buyer agrees, for the Goods delivered under this Agreement, to indemnify Seller against court-assessed damages (excluding consequential damages)



and costs resulting from infringement of any patents issued in any country or any other intellectual property right by Goods meeting specifications, designs or instructions furnished or expressly or implicitly required by Buyer. Neither party will be entitled to indemnification as to any claim for which it does not give prompt written notice to the other party and full opportunity at the expense of the indemnifying party to defend and dispose of such claim. The sale of Goods covered by this Agreement will not grant to Buyer any right or license of any kind under any patent owned or controlled by Seller or its suppliers, or under which Seller or its suppliers is licensed, but the foregoing will not limit in any way the right of Buyer to use and sell such Goods in the event that such Goods as sold hereunder are covered by a patent. No right, title or interest in and to any development, invention or work of authorship conceived or developed by Seller during the course of performance hereunder is conveyed to Buyer.

**15. Confidentiality and Intellectual Property:** Unless otherwise agreed to in writing by Seller, Seller will not be bound by any obligations of confidentiality or non-disclosure. No right, title, or interest in and to any development, invention, or work of authorship, conceived or developed by Seller during the course of performance hereunder, is conveyed to Buyer. Seller does not grant to Buyer, and nothing contained herein will obligate or be construed to obligate Seller to grant to Buyer, any license under any patents or other intellectual property owned by Seller. Except for data customarily provided for quality control purposes (which Buyer will keep confidential and use solely for such purposes), Seller will not be required to provide any data concerning its manufacturing processes, in as much as such data was developed at private expense, and not an element of performance under this Agreement or any other contract with Buyer.

**16. Legal and Trade Compliance:** Goods, services and information supplied under this Purchase Order are subject to Buyer's compliance with all laws, including the U.S. Foreign Corrupt Practices Act and all other applicable anti-corruption laws and regulations and U.S. import and export laws and regulations and may be subject to EU and other applicable countries' anti-corruption and export/import rules and regulations as well. For shipments outside of the U.S., Seller will be responsible for obtaining the appropriate export license(s) necessary to permit shipment of the ordered Goods, including applications for agreements relating to defense services, and Buyer will cooperate with Seller in obtaining such export licenses at Seller's request. Seller will have no liability to Buyer in the event that an export license is delayed, not approved or is later withdrawn or suspended. Seller may, in its sole discretion, agree to engage in a "routed transaction", in which case Buyer shall provide all documents and take all actions requested by Seller to comply with U.S. export requirements. Buyer agrees to comply with applicable import and export regulations whether administered by the Office of Defense Trade Controls, the U.S. Department of State, the Bureau of Export Administration, the U.S. Department of Commerce, the Office of Foreign Asset Control (OFAC) or any other agency of the U.S. Government which provide inter alia that the equipment shall not be re-sold, diverted, re-exported or disposed of in other than the country of ultimate destination without the prior approval of the U.S. Department of State or Commerce or other Agency of the U.S. Government, whichever is applicable. Buyer agrees to provide Seller any documentation Seller reasonably requests to comply with the regulations. For shipments within the U.S., it is the responsibility of Buyer or other exporter to comply with all U.S. export control laws and regulations. Should Buyer's actions, or the actions of its owners, directors, officers, employees, representatives, consultants or agents, result in the assessment of any fine, penalty or disgorgement of profits against Seller for violation of any applicable laws, Buyer hereby agrees to indemnify Seller therefore.

**17. Equipment/Tooling:**

(A) Any equipment, including jigs, dies and other non-recurring tooling ("Tooling") which Seller constructs or acquires for use exclusively in the production of Goods to Buyer under this Agreement will be and remain Seller's property and in Seller's possession and control. If Buyer pays for or otherwise reimburses Seller for Tooling as a separate line item on Seller's invoice, then Seller will use such Tooling solely to produce Goods for Buyer under this Agreement and for no other customer. Seller will require written permission from Buyer to use Tooling to produce Goods for a third party.



(B) When for three consecutive years Buyer places no orders with Seller for Goods to be produced using the Tooling, then Seller may, by written notice to Buyer at Buyer's last known address, notify Buyer of Seller's intent to dispose of such Tooling. If Buyer fails to place an order with seller for Goods to be produced using such Tooling within 30 days of such notice, then Seller may dispose of such Tooling in its sole discretion without liability to Buyer.

(C) Any materials or equipment owned or furnished by Buyer will be carefully handled and stored by seller while in Seller's possession. Over a period of three consecutive years, if Seller does not accept any orders from Buyer for Goods to be made with any such equipment or materials, Seller may, by written notice to Buyer, request Buyer to make disposition thereof at Buyer's expense. If Buyer fails to reply or otherwise dispose of the equipment or materials within thirty days of the date of Seller's notice, Seller may make such use or disposition of said equipment or materials in its sole discretion without liability to Buyer.

18. Goods for Development or Testing: IF GOODS ARE SAMPLES OR FOR DEVELOPMENT OR TESTING, SELLER MAKES NO WARRANTIES OF ANY KIND OR NATURE FOR SUCH GOODS AND SELLER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. ANY SUCH GOODS AND RELATED SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS IS, WITH ALL FAULTS." Notwithstanding any other provision in this Agreement, Seller has no obligation, liability or responsibility with regard to any sample, developmental or test Goods supplied by Seller under any order. Buyer will indemnify, defend and hold Seller harmless from all claims, demands, and causes of action asserted against Seller (including reasonable attorney's fees), including without limitation claims for personal injury, illness, death or loss or damage to physical property, resulting from or arising out of Buyer's purchase, use or sale of sample, developmental or test Goods.

## **19. Anti-Corruption Compliance:**

### **General.**

(A) Buyer acknowledges that it has had the opportunity to review Seller's written Anti-Corruption Policy, which is available at the following web address:

<http://www.arconic.com/global/en/investors/anti-corruption-policy.asp>

Buyer represents and certifies that it fully understands the Policy, agrees to take no action with respect to its purchase, use, or disposition of the Goods, or this Agreement generally, that might be a violation of the Policy.

(B) It is the intent of Seller and Buyer that no payments or transfers of value shall be made in relation to this Agreement or to Buyer's use or disposition of the Goods that have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business or any other benefit.

(C) Buyer represents that it, and each of its owners, directors, officers, employees and every other person working on its behalf has not and shall not, in connection with the transactions contemplated by this Agreement or in connection with any other business transactions involving Seller, make any payment or facilitate or transfer or cause to transfer anything of value, directly or indirectly to:

(i) any governmental official or employee (including any employee of a government corporation or public international organization);

(ii) any political party, official or worker of a political party, or candidate for public office;

(iii) any other person or entity if such payment or transfer would violate any applicable anti-corruption law; or



(iv) an intermediary for payment to any of the foregoing.

(D) In the event of a breach of any of the representations, warranties or covenants made by Buyer in the Anti-Corruption Compliance Section of these Terms and Conditions (including the General subsection or Terms Specific to Distributors and Resellers of Goods subsection), Company may, in its sole discretion and in addition to any other remedies it may have under law or this Agreement, cancel or terminate this Agreement without notice and any claims for payment by Buyer with regard to transactions under this Agreement, including claims for services previously performed, shall be automatically terminated and cancelled, and any payments previously paid by Company shall be refunded to Company by Buyer. Buyer shall further indemnify and hold Company harmless against any and all claims, losses or damages arising from or related to such breach and/or termination of this Agreement.

### **Terms Specific to Distributors and Resellers of Goods**

If Buyer is acting as a distributor or reseller of Seller's Goods, with or without the knowledge or agreement of Seller, Buyer hereby represents, warrants and covenants to Seller:

(A) Buyer and its owners, directors, officers, employees and agents have not and will not pay, offer, promise to pay or authorize the payment directly or indirectly of any monies or anything of value to any government official, representative or employee or to any political party, holder of public office, or candidate for public office in connection with this Agreement. Buyer acknowledges that, for purposes of this clause, a "government official" may include an employee or official of a commercial entity in which a government body has an ownership interest or exerts control over such entity, as well as officials, representatives and employees of public international organizations;

(B) None of Buyer's owners, directors, officers, partners, employees, agents or close family members thereof, i.e., spouses, children, parents and siblings, is presently (or has been within the last year) a government official, representative or employee of any political party, holder of public office, or a candidate for public office. Buyer covenants that it will inform Seller promptly in writing, if any such person assumes such a position while at the same time remaining one of Buyer's owners, directors, officers, partners, employees or agents;

(C) All information that has been submitted by Buyer to Seller is complete, truthful and accurate. Buyer will not prepare, approve or execute any contract or other document or make any record that Buyer knows or has reason to know is false, inaccurate or incomplete;

(D) Buyer is organized for legitimate business purposes and not for any unlawful purpose, and has only lawful sources of funding;

(E) Buyer does not have any existing or potential relationship creating a conflict of interest that restricts or is otherwise in conflict with its ability to distribute or resell the Goods;

(F) Buyer is fully qualified to distribute or resell Goods purchased hereunder in accordance with the laws, regulations, rules, decrees and other directives applicable to it. Buyer has obtained licenses or completed such registrations as may be necessary or required to perform such activities; and,

(G) Neither Buyer nor any of its owners, directors, officers, partners, employees or agents has been convicted of or pleaded guilty to an offense involving fraud, corruption or moral turpitude, nor has any such person been listed by any government agency as debarred, suspended, proposed for suspension or disbarment or otherwise ineligible for government procurement programs.

(H) Buyer will give prompt written notice to Seller in the event that at any time it continues to act as a distributor or reseller of Goods, Buyer breaches any of the warranties, representations or covenants contained herein. Buyer further





agrees to give prompt written notice to Seller about any potential violation of any of the warranties, representations or covenants contained herein of which it obtains knowledge or becomes aware or has reasonable grounds to believe has occurred.

Notices shall be directed to:

Arconic Global Ethics and Compliance  
201 Isabella Street  
Pittsburgh, PA 15212  
United States of America  
[www.ArconicEthicsandCompliance.com](http://www.ArconicEthicsandCompliance.com)  
Email: [ArconicEthicsandCompliance@arconic.com](mailto:ArconicEthicsandCompliance@arconic.com)

(I) Buyer will cooperate fully and in good faith with Seller and its representatives in the event of any actual or potential violation by Buyer, or any of its owners, directors, officers, employees or agents, of the Foreign Corrupt Practices Act or any other applicable anti-corruption law, or any warranties, representations or covenants contained herein, including providing access for interviews to its owners, directors, officers, employees and agents.

(J) Buyer will certify in writing, at the request of Seller, its compliance with all applicable laws. In addition, it will certify (in the form of a Certificate to be provided by Seller), that it has not (and to its knowledge no other person, including but not limited to every director, officer, employee, representative, consultant or agent of Seller, made, offered to make, or agreed to make any loan, gift, donation, or other payment, directly or indirectly, whether in cash or in kind, to or for the benefit of any government official, political party, party official, candidate for political office, or faction of any government subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof to secure or retain business, influence any decision or obtain any benefit for Seller. Buyer will also complete annual training on anti-corruption principles sent by the Seller for so long as Buyer continues to purchase Goods from Seller for distribution and/or resale.

(K) During the term of this Agreement, and for a period of five (5) years after its expiration or termination, Buyer will maintain records that accurately and completely document all services performed; all payments received or made (whether in kind or in cash); and all expenditures incurred by Buyer on behalf of Seller or otherwise in connection with the performance of this Agreement.

(L) In order to verify compliance with the terms of this Agreement, Buyer agrees that Seller shall have the right, from time to time, upon written notice, to audit Buyer's books and records to the extent that such books and records relate to the performance of this Agreement and any payments received or expenditures incurred hereunder. Buyer agrees to furnish promptly to Seller any additional information it may reasonably request to verify compliance with this Agreement.

**Buyer agrees that it will indemnify Seller for all damages suffered by Seller as a result of any breach by Buyer of the forgoing representations, warranties and covenants.**

If Buyer is acting as a distributor or reseller of Seller's Goods, with or without the knowledge or agreement of Seller, Buyer acknowledges and agrees that notwithstanding any other written agreement with Company:

(A) Any and all payment to Buyer relating to or arising out of this Agreement shall be made payable to Buyer in the country in which Buyer does business or resides.

(B) All payments to Buyer shall be made by wire transfer or by a Seller check delivered to Buyer in the locations where it does business or resides.



(C) Company has the right to suspend or withhold payment pending an investigation into any suspected violation of the prohibition of bribery in these Terms and Conditions, any applicable anti-corruption law and/or the Foreign Corrupt Practices Act.

(D) Unless agreed to expressly in writing, Buyer shall not be reimbursed for any expenses incurred in its capacity as a distributor or reseller of Goods. Buyer acknowledges and agrees that notwithstanding any other written agreement with Seller, to the extent that any payments are agreed upon, Buyer shall be reimbursed for all disbursements and travel and lodging expenses reasonably incurred by it in the performance of its obligations under this Agreement, but only to the extent they are documented and supported by receipts to Seller's satisfaction.

(E) Under no circumstances shall Seller issue any payment under this Agreement directly to any owner, director, officer, employee, representative, agent or consultant of Buyer.

(F) No request for cash payments or cash equivalents will be accepted by Seller.

**20. Miscellaneous:** This Agreement may be performed, and all rights hereunder may be enforced against Buyer, by Seller or any subsidiary, parent or affiliate of Seller. The Purchase Order may not be assigned by Buyer without the prior written consent of Seller. No provision hereof and no breach of any provision will be deemed waived by reason of any previous waiver of such provision or of any breach thereof. These Terms and Conditions may be modified only by a writing signed by the parties. The invalidity, in whole or in part, of any provision of this Agreement will not affect the remainder of such provision or any other provision. If any provision or application of any provision of this Agreement is invalid or unenforceable, then a suitable and equitable provision will be substituted for such provision in order to carry out, so far as may be valid and enforceable, the intent and purpose of this Agreement including the invalid or unenforceable provision. This Agreement will be governed by, and interpreted in accordance with, the laws of the State of New York, excluding those relating to choice or conflicts of law and excluding the United Nations Convention on Contracts for the International Sale of Goods. The provisions entitled or regarding Warranty; Excluded Damages; Infringement; Confidentiality and Intellectual Property; Legal and Trade Compliance, Anti-

Corruption Compliance and any other clause or section providing for limitation of or protection against liability of Seller will survive any termination, cancellation or expiration of this Agreement and/or any Purchase Order. This Agreement and any of Seller's attachments hereto and made a part hereof, constitute the entire understanding between the parties and supersede any previous oral or written understandings with respect to the subject matter hereof.