

Q-E MANUFACTURING CO., INC.

SELLER'S TERMS AND CONDITIONS

1. **Applicability.** These terms and conditions of sale (these “**Terms**”) are the only terms which govern the sale of the goods (“**Goods**”) by Q-E Manufacturing Co., Inc. (“**Seller**”) to the purchaser (“**Buyer**”) named on the accompanying Sales Order Acknowledgement (“**Sales Confirmation**”). Seller’s initial quote (the “**Quote**”), the Sales Confirmation, these Terms and any other prior written agreement signed by Buyer and Seller that specifically states that it amends these Terms (collectively, the “**Agreement**”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

2. **Delivery; Shipping Terms.**

(a) The goods will be delivered within a reasonable time following Buyer’s submission of its purchase order, as determined by reference to the time for delivery set forth in the Quote. The date or time for delivery of the Goods set forth in the Quote is an estimate only. Seller shall not be liable for any delays, loss or damage in transit.

(b) Except as otherwise set forth in the Agreement, Seller shall deliver the Goods for shipment at Seller’s facility located at 809 Market Street, New Berlin, PA 17855 (the “**Delivery Point**”) using Seller’s standard methods for packaging and shipping such Goods. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Goods at the Delivery Point. If for any reason Buyer fails to accept delivery of any of the Goods in accordance with the foregoing: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

(c) Delivery shall be made FOB Delivery Point.

3. **Amendment.** These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

4. **Inspection and Rejection of Nonconforming Goods.**

(a) Buyer shall inspect the Goods within 20 days of delivery (“**Inspection Period**”). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes written evidence or other documentation as required by Seller. “**Nonconforming Goods**” means the product delivered is materially different than identified in the Sales Confirmation.

(b) If Buyer notifies Seller of any Nonconforming Goods during the Inspection Period, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship the Nonconforming Goods to Seller’s facility located at 809 Market Street, New Berlin, PA 17855. If Seller exercises its option to

replace Nonconforming Goods, Seller will, after receiving Buyer's shipment of Nonconforming Goods, deliver to Buyer the replaced Goods to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 4(b) are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 4(b), all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

5. Price. Buyer shall purchase the Goods from Seller at the applicable price (the "**Price**") set forth in the Sales Confirmation and/or Quote. Such Price shall be valid only for the quantities and line items specified in the Sales Confirmation and/or Quote. All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets.

6. Payment Terms. Except as otherwise set forth in the Agreement, Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law. Buyer shall reimburse Seller for all costs and expenses incurred in collecting any late payments, including, without limitation, attorneys' fees and court costs. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

7. Limited Warranty.

(a) Seller warrants to Buyer that for a period of 12 months from the date of shipment of the Goods ("**Warranty Period**"), such Goods will materially conform to the specifications set forth or referred to in the Sales Confirmation and will be free from material defects in material and workmanship.

(b) EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 8(A), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

(c) Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 7(a). For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

(d) Seller shall not be liable for a breach of the warranty set forth in Section 7(a) unless: (i) Buyer gives written notice of the defect, reasonably described, to Seller within 30 days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after

receiving the notice to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the Goods are defective.

(e) Seller shall not be liable for a breach of the warranty set forth in Section 7(a) if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods (including, without limitation, Buyer's failure to protect the Goods from adverse weather and other conditions); or (iii) Buyer alters or repairs such Goods without the prior written consent of Seller.

(f) Seller shall not be liable for a breach of the warranty set forth in Section 8(a) if Seller manufactured and/or designed the Goods to Buyer's specifications and, in such event, Buyer shall indemnify Seller from, and defend and hold Seller harmless from and against any Losses suffered, incurred or sustained by Seller or to which Seller becomes subject, resulting from, arising out of or relating to any claim: (i) that the Goods infringe upon the proprietary or other rights of any third party (except as may have been caused by a modification by Seller); and (ii) of loss or damage resulting from the Goods and the use thereof.

(g) Subject to Section 8(d) and Section 8(e) above, with respect to any such Goods during the Warranty Period, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Goods to Seller.

(h) THE REMEDIES SET FORTH IN SECTION 8(G) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 8(A).

8. Limitation of Liability.

(a) IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER.

(c) The limitation of liability set forth in Section 8(b) above shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.

9. Compliance with Laws. Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and

permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

10. Termination. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

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

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

13. Force Majeure. Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party’s workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of 60 days, Buyer shall be entitled to give notice in writing to Seller to terminate this Agreement.

14. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

15. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership,

joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

16. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

17. Governing Law; Jurisdiction. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to the conflicts of law provisions of any jurisdiction. Any legal suit, action or proceeding arising out of or relating to this Agreement may be instituted in the state or federal courts located in Harrisburg, Pennsylvania, and each party irrevocably submits to the jurisdiction of such courts.

18. Notices. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

19. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

20. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following: Section 10 (Compliance with Laws), Section 13 (Confidential Information), Section 18 (Governing Law; Jurisdiction) and this Section 21 (Survival).