



TERMS AND CONDITIONS OF SALE

1. Effects of Terms and Conditions of Sale. Except as otherwise agreed to by Lancer Systems, LP ("Seller"), in Seller's sole discretion, this document shall be inoperative if a binding contract has already been formed on solely Seller's terms of sale. These terms and conditions of sale (the "Terms of Sale") supersedes all prior purchase orders negotiations, proposals, or communications between Seller and the buyer of the goods referred to herein (the "Buyer") and, except as otherwise expressly provided by these Terms of Sale, contains the entire agreement of the parties and may not be amended or modified orally. Any offer or proposal by Buyer is expressly limited to the terms, warranties, and conditions contained herein. Seller objects to and rejects to all terms, warranties or conditions contained in Buyer's purchase order or other communication which are additional to, different from, or conflicting with the terms of these Terms of Sale. Any offer or proposal by Buyer for such additional, different or conflicting terms, warranties or conditions or any attempt by Buyer to vary in any degree, any of the terms, warranties or conditions of these Terms of Sale shall not operate as a rejection of these Terms of Sale unless such variances are in the description, quantity, price or delivery schedule of the goods quoted by Seller on or with respect to these Terms of Sale (the "Goods") but shall be deemed a material alteration of the terms, warranties and conditions of these Terms of Sale, and these Terms of Sale shall be deemed accepted by the Buyer without said additional, different or conflicting terms, conditions and warranties. Neither the failure by Seller to object to a purchase order or any other communication from Buyer nor any research on, or development, manufacture, shipment or otherwise of, the Goods shall be deemed an acceptance by Seller of any terms, warranties, or conditions which are additional to, different from, or conflicting with the terms, warranties, and conditions contained in these Terms of Sale. Any of the following acts or omissions shall be deemed an effective mode of Buyer's assent to and acceptance of these Terms of Sale: (i) Buyer's failure to make written objection to Seller within five (5) business days after receipt by Buyer of these Terms of Sale; (ii) Seller's commencement of work on the Goods; (iii) Seller's shipment of the Goods; and (iv) Buyer's acceptance or use of, or full or partial payment for, the Goods.

2. Price: Terms of Payment. Seller's quoted price for the Goods (the "Purchase Price") shall be exclusive of any and all taxes; custom duties; shipping; handling; packaging; boxing; charges for returnable or reusable containers and damaged and missing tooling; and penalties (collectively, referred to as "Additional Charges"). The Goods shall not be subject to discount unless Seller expressly and clearly provides to Buyer such discount in writing. The Purchase Price will apply to material scheduled by Seller for shipment within ninety (90) calendar days of this date. Goods which are scheduled by Seller for shipment later than ninety (90) calendar days after this date will be invoiced at the Seller's price therefor at the time of shipment, which may be higher because of increased material, labor and/or other costs. If such price adjustment exceeds 15% of the previous price, Seller will notify Buyer at least thirty (30) calendar days prior to scheduled date of shipment, and Buyer may, within five (5) calendar days after such notification, cancel any portion of Buyer's order to which such price adjustment applies, but Buyer shall remain liable for that portion which it does not so cancel. Except as otherwise provided by these Terms of Sale, the Buyer shall pay the full Purchase Price and Additional Charges within thirty (30) calendar days after the date of Seller's invoice. Checks or remittances received from or for the account of Buyer may be applied against amounts owing by Buyer, without accord and satisfaction of Buyer's liability, regardless of writings, legends or notations on such check or other instrument, remittance, writing, statement or document. If the outstanding amount of the Purchase Price and Additional Charges are not paid in full when due, Buyer shall in addition pay, from the due date until payment in full, (i) interest at the monthly rate of one and one half percent (1 1/2%) of the sum of the unpaid Purchase Price plus (ii) any increases in Additional Charges. Interest shall be compounded monthly. Seller may withhold any amounts due from future payments by Buyer. If, in Seller's sole discretion, the financial condition of Buyer does not justify continuation of production or shipment on the terms specified herein, Seller, at its sole option, may cancel any completely or partially unfilled orders from Buyer or parts thereof and/or may demand immediate payment for all Goods delivered and/or full or partial payment in advance for all Goods not delivered. Notwithstanding any provision in these Terms of Sale to the contrary, Seller reserves the right in its sole reasonable discretion to modify the dates on which it sends invoices, shipping dates, payment due dates and notification dates.

3. Quantity Variations and Substitutions. Seller reserves the right to ship and Buyer agrees to accept and pay for at the agreed upon price per unit overruns or underruns of up to and including five percent (5%) of the actual quantity specified in Buyer's order. Unless Buyer's order shall specifically state otherwise, Seller may substitute for any of the goods specified in Buyer's order, goods of like or greater quality which are functional equivalents.

4. Shipping and Risk of Loss. Except as otherwise expressly provided in writing by Seller, all Goods are shipped F.O.B. Seller's plant, and Buyer shall pay the cost of any and all carriers and freight. Upon delivery of the Goods by Seller to the carrier for shipment to Buyer, all risk of loss, damage and other incidents of ownership shall immediately pass to Buyer, subject to all of Seller's rights until paid in full. Unless complete shipping instructions are received from Buyer substantially before the shipping date, Seller reserves the right to use its best judgment in selecting appropriate means of shipment. Seller reserves the right to make partial shipments and to invoice Buyer therefor, such shipments and invoices to be covered by the terms and conditions contained herein. If shipments of any goods ordered are delayed by the Buyer, all Goods held by Seller shall be at the sole risk and expense of Buyer.

5. Delivery Charges. All transportation, insurance (if requested in writing by Buyer) and other delivery charges from Seller's plant to Buyer stated hereon or herewith by Seller included in the price of the Goods described hereon represent estimated charges. If actual charges at the time or times of shipment are greater or lesser than any of the aforesaid charges, Buyer shall pay any increase and shall receive the benefit of any decrease. To the fullest extent legally permissible, Buyer shall pay all Federal, State, County and Municipal taxes, sales, excise or otherwise which Seller may be required to pay or collect upon or



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with reference to the sale, purchase, transportation, delivery, storage, use or consumption of the Goods now in effect or imposed at or prior to the time the Goods are delivered, such taxes to be added to the Purchase Price.

6. Taxes and Duties. To the fullest extent legally permissible, Buyer shall pay or reimburse Seller for all applicable U.S. and non-U.S., international, Federal, state and local taxes and customs duties, which Seller may be required to pay or collect and now in effect or imposed at or prior to the time the Goods are delivered, such taxes and duties to be in addition to the Purchase Price.

7. Security Interest. Until the Purchase Price and Additional Charges are paid in full: (a) Seller retains title to and Buyer grants Seller a security interest in the Goods together with all instructions and all parts, accessories, attachments and accessions now or hereafter physically separate from or installed in or affixed thereto; (b) Buyer shall execute financing statements on Seller's request and irrevocably authorizes Seller to execute same on Buyer's behalf; (c) Buyer shall keep the Goods in good repair and free from all security interests, liens and encumbrances and shall assume all charges for storage and shall fully insure same, at its expense against loss from any cause with Seller made loss payee. Any such loss, destruction or damage shall not operate to relieve Buyer from the obligation to pay the Purchase Price and Additional Charges.

8. Force Majeure. Seller in Seller's sole discretion may terminate, delay or suspend performance hereunder in whole or in part and shall not be liable for any direct, indirect, special, incidental or consequential liability, delay, damage or loss occasioned thereby because of force majeure, which shall include, without limitation, acts of God, fires, explosions, severe weather, flood, labor disputes, strikes, lockouts, boycotts, picketing or other industrial disturbances, riots, epidemics, quarantine restrictions, wars or police action, delays of carriers, failure, curtailment or delay of Seller's operations, freight embargoes, governmental regulations, restrictions, controls, rationing or guidelines, voluntary or mandatory, legislative, executive or administrative, inability to obtain parts, equipment, inventory, raw materials, labor or any of the Goods at reasonable prices or for any other reason and all interruptions of business causalities, events or circumstances beyond the control of Seller. Buyer shall accept as full and complete performance of any contract resulting from these Terms of Sale delivery of such portion of the Goods as Seller determines it is able, under the circumstances, to deliver in accordance with these Terms of Sale, and Buyer shall be liable for such delivered portion.

9. Delivery Date. The delivery date set forth herein is approximate only, is not guaranteed and may be extended by Seller for a reasonable time if conditions, in Seller's sole discretion, warrant. Seller shall in no event be liable for any direct, indirect, special, incidental or consequential damages resulting from failure to meet delivery schedules.

10. Claims. Buyer must present, in a clear, detailed and written form, claims for shortages or erroneous charges to Seller within five (5) business days after Buyer's receipt of or access to the Goods, or such claims will not be allowed.

11. Warranty. The warranties under these Terms of Sale extend to only (a) Seller's expressly authorized distributors ("Distributors") and (b) the original end user of the Goods (i) who acquires such Goods directly from Seller or directly from a Distributor and (ii) who acquires the Goods not for resale of the Goods themselves but for such end user's own use or for such end user's incorporation into a product which the end user manufactures (the "End User"). ANY GOODS ACQUIRED BY ANY PERSON OR ENTITY OTHER THAN A DISTRIBUTOR OR END USER ARE ACQUIRED ON AN "AS-IS" BASIS "WITH ALL FAULTS" AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES OF SELLER. Seller shall not be responsible for expenses of removal, return or re-installation of any Goods. Seller in no way guarantees any quantities to Buyer. Buyer is solely liable for any losses and costs resulting from obsolescence or restocking of unused or returned Goods. SELLER IS NOT LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, WHETHER RESULTING FROM BREACH OF WARRANTY, NEGLIGENCE OR ANY OTHER REASON. THE WARRANTIES CONTAINED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, AND SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF CONDITION, DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INTERFERENCE, NON-INFRINGEMENT, ACCURACY, QUALITY, SYSTEMS INTEGRATION OR ANY OTHER MATTER. These warranty provisions may not be modified or altered except in a writing signed by an authorized officer of Seller. No action pursuant to this warranty may be brought more than one hundred and eighty (180) calendar days after the date of delivery of the allegedly defective Goods. Buyer's sole remedy for any Goods which prove defective in design, material or workmanship, whether due to breach of warranty, Seller's negligent acts or omissions or otherwise, is limited to repair or replacement of such Goods. Seller either will repair or will replace (such choice being in Seller's sole discretion) without charge any Goods which prove defective in design, material or workmanship within one hundred and eighty (180) calendar days of delivery, provided that: (a) Buyer has acquired the Goods directly from Seller or directly from a Distributor; (b) Buyer gives clear, detailed and written notice of any alleged defect to Seller within one hundred and eighty (180) calendar days of the date of delivery; (c) Seller shall be given a reasonable opportunity to inspect the allegedly defective Goods and confirm that they are defective; and (d) such defect is not due wholly or in part to any of the following: (i) modification of the Goods by any person or entity other than Seller or Seller's duly authorized representative, (ii) accident, fire, flood or other casualty, (iii) negligence, vandalism, use in violation of Seller's

instructions or abuse or misuse of the Goods, (iv) ordinary wear, tear or usage, or (v) other cause, similar or dissimilar, not directly or solely due to defective design, material or workmanship provided by Seller. Buyer shall communicate the Seller Warranty to all End Users and to all others, to whom Buyer delivers any products or otherwise transfers any Goods. Buyer acknowledges and agrees that the Seller Warranty shall be null and void as to any Goods which Buyer sells or otherwise transfers to any person, Seller or entity other than as set forth in this Section 11.

12. Modification and Default. Buyer may not cancel, terminate or modify, in whole or in part, any contract resulting herefrom except with the prior express written consent of Seller. Buyer's obligations hereunder shall not be affected by any fire damage, destruction or other casualty to the premises where any of the Goods are to be located or installed. Any of the following, at Seller's option, shall be a default by Buyer hereunder: (a) Buyer refused to accept any of the Goods ordered; (b) Buyer breaches or fails to perform any of the other terms set forth herein (whether material or not); (c) any proceedings in liquidation, bankruptcy, reorganization, arrangement, debtor rehabilitation, creditor adjustment, or insolvency is commenced by or against Buyer; (d) Buyer makes an assignment for the benefit of creditors or enters into a composition agreement with all or some of Buyer's creditors; (e) a judgment not adequately covered by insurance is recorded against Buyer; (f) Buyer ceases operations; (g) Seller reasonably deems itself insecure; (h) a trustee, receiver, conservator, liquidator or other judicial representative, similar or dissimilar, is appointed for Buyer or any of Buyer's assets; (i) infringement by Buyer of any U.S. or non-U.S. patents, copyrights or trademarks resulting from Buyer's use, possession, ownership or modification of the Goods; (j) death or injuries to persons and/or property damage resulting from Buyer's use, possession, ownership or modification of the Goods; (k) dilution of any U.S. or non-U.S. trademarks resulting from Buyer's use, possession, ownership or modification of the Goods; or (l) Seller's reasonable belief that any of (a) through and including (k) have occurred, are occurring or will occur. After default by Buyer, Seller, in addition to all other remedies, may at its sole discretion, do one, all or any combination of the following: (i) at no cost or liability refuse shipment of all or part of the Goods and/or cancel Seller's obligations under all or any part of any contract resulting herefrom, and/or (ii) (whether or not Seller cancels) require Buyer to indemnify, defend and hold Seller and Seller's officers, directors, owners, employees and agents (collectively, referred to as "Agents") harmless from and against any and all claims, suits, actions, damages, costs, liabilities, expenses and losses, including, without limitation, all Seller's and its Agents' attorney's fees and court costs, other costs of investigating and litigating claims and Seller's and its Agents' reasonable lost profits resulting directly or indirectly from, or in connection with, Buyer's default; and/or (iii) enter on any premises where the Goods may be located and repossess and remove same without liability for any direct, indirect, incidental, consequential and/or special damage occasioned thereby (with Buyer indemnifying, defending and holding Seller and its Agents harmless from and against any and all such damage); and/or (iv) sell any of the Goods at public or private sale upon five (5) days' prior written notice, which is agreed by Buyer to be commercially reasonable. Buyer shall continue performance of any part of any contract resulting from these Terms of Sale which is not cancelled.

13. Tooling, Equipment and Designs. All equipment, dies, patterns, molds, gauges, taps, jigs, fixtures and other tools, and all designs, drawings, specifications, technical documents and other such material which are required produced or furnished by Seller pursuant to an order resulting herefrom (collectively, referred to as "Tooling"), as well any and all patents, copyrights, trademarks and other intellectual property rights in and to any Tooling, shall remain the sole property of Seller regardless of whether any charges are made for Tooling. Buyer may not sell, assign, or transfer in any manner at any time any right, title or interest in or to any Tooling. In any event, and regardless of ownership, Seller shall not be responsible (i) to obtain on its own, repair or replace any Tooling or (ii) to maintain any Tooling for more than three (3) years after the Buyer's most recent purchase order.

14. Confidentiality. Buyer shall not, without first obtaining Seller's express written consent, disseminate the fact that Seller has furnished or has contracted to furnish Buyer the Goods covered hereby nor, except as is necessary for performance of these Terms of Sale, shall Buyer disclose any of the details connected with these Terms of Sale to third parties.

15. Jurisdiction. The parties agree that these Terms of Sale shall be governed by and construed and enforced in accordance with the substantive laws of the State of Pennsylvania applicable to contracts executed in and to be wholly performed in such State, except for its rules relating to the conflict of laws. BUYER HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE PENNSYLVANIA COURT OF APPROPRIATE JURISDICTION IN ANY AND ALL ACTIONS AND PROCEEDINGS COMMENCED OR INSTITUTED BY BUYER WITH RESPECT TO THESE TERMS OF SALE OR UNDER ANY AGREEMENT OR UNDERTAKING BETWEEN THE PARTIES, AND IRREVOCABLY AGREES TO SERVICE OF PROCESS BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS OF BUYER AS SET FORTH HEREIN. BUYER HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION COMMENCED BY OR AGAINST IT WITH RESPECT TO THE RIGHTS AND OBLIGATIONS HEREUNDER OF ANY OF THE PARTIES TO THESE TERMS OF SALE.

16. Distributor Provisions. If Buyer is acting as Seller's Distributor, then except as Seller expressly agrees in writing otherwise and notwithstanding anything above to the contrary:

- (a) Buyer shall not be an exclusive distributor for any Goods;
- (b) Buyer's territory for sales ("Territory") shall be designated by Seller in Seller's sole discretion;
- (c) Buyer shall not receive any discount;
- (d) Buyer shall submit in writing to Seller net sales figures for the preceding month for Goods purchased from Seller and sold by Buyer (a "Sales Report"), which figures must be received by Seller by the fifteenth (15th) of the month or on the first (1st) business day thereafter. This Sales Report shall include number of items, the dollar value of those items and the customers and locations to which those sales were made. Buyer shall also submit to Seller a copy of the invoice of sale for Goods sold in the preceding month verifying the Sales Report, which copy must be received by Seller within thirty (30) days after the end of the month;
- (e) The Seller reserves the right to sell directly to customers located within the Territory when the customer orders the Goods to be delivered to their branches or subsidiaries located in the U.S. With respect to these types of sales, billed for by the Seller and paid for by customers, Buyer shall not be entitled to a sales commission;
- (f) In addition to its other rights, Seller reserves the right, in its sole discretion and for any reason and at any time and from time to time to:
 - (i) establish or change any prices, warranty terms, sales or shipment terms and conditions, or sales or other policies or practices either before or after shipment;
 - (ii) refuse to accept from Buyer any order or orders with respect to all or any of Seller's Goods or refuse to fill any order or orders previously accepted from Buyer; and
 - (iii) discontinue or suspend manufacture of any of its Goods;
- (g) Seller shall make a reasonable effort to give Buyer timely notice of any change in prices, sales, warranty or shipment terms, sales policies or practices, cancellations or changes in orders, and substitutions with respect to the Goods. In turn, Buyer shall promptly advise any of its affected customers in Buyer's Territory of such matters and shall promptly advise Seller as to whether the change is acceptable to its affected customers;
- (h) Buyer will use its best efforts to sell, market and promote the sale of the Goods in the Territory, obtain new customers therefore, and maintain existing customer relationships;
- (i) Buyer shall not collect or receive any monies on behalf of Seller unless specifically authorized by Seller in writing;
- (j) Buyer further agrees to:
 - (i) do all things necessary to diligently and faithfully procure orders for, and sales of, the Goods within the Territory;
 - (ii) comply with all sales and other policies and practices of Seller;
 - (iii) comply with Seller's written instructions and policies concerning use and display of Seller's corporate name and all trademarks or trade names associated with Seller or its Goods;
 - (iv) maintain complete and accurate written records describing all sales and promotional activities engaged in by Buyer with respect to customers and prospective customers for the Goods or for any other products manufactured by Seller, including without limitation sales call reports, contact reports, customer inquiries, customer complaints and claims, prospect listings, prospect profiles, market reports, market updates, sales forecasts, copies of invoices, quotations, inquiries, sample requests and other data, information and Know-How which is pertinent to the sale and application of Seller's Goods in the Territory, and furnish to Seller, upon request by Seller or in accordance with reporting schedules established from time to time by Seller, copies of all such records and materials;
 - (v) be responsible for and pay all costs of conducting Buyer's business activities;
 - (vi) maintain (a) automobile insurance policies which, in the aggregate, provide liability coverage of not less than One Million Dollars per occurrence or incident for damages to any person or property arising out of the operation of a motor vehicle by Buyer or any of its employees and (b) comprehensive products liability insurance policies which, in the aggregate, provide coverage with respect to the Goods of not less than One Million Dollars for damages to any person

or property, and file with Seller, upon request by Seller, actual or memorandum copies of all such insurance policies or other documents satisfactory to Seller evidencing the existence of such insurance coverages; and

(vii) indemnify Seller and hold Seller harmless from and against any loss, damage or liability including without limitation attorney's fees which Seller suffers or incurs as a result of any actual or claimed negligence of Buyer or its employees or agents in connection with the performance of its or their duties hereunder, or any breach or default by Buyer of its duties or obligations hereunder, which indemnity and hold harmless agreement shall survive any termination of these Terms of Sale;

(k) Buyer's distributorship (the "Distributorship") shall continue until terminated in a manner provided herein. The Distributorship may be terminated at any time by either party, without cause, upon not less than sixty (60) days prior written notice to the other party. Furthermore, either party may terminate the Distributorship for cause, immediately upon written notice to the other party in the event:

- (i) such other party ceases all or substantially all of its business operations, or
- (ii) such other party is in material breach or material default of any of its obligations under this agreement and does not fully cure or correct such breach or default within ten (10) days after receiving written notice of such breach or default, or
- (iii) such other party takes willful action which is, or is intended to be injurious or detrimental to the terminating party, or
- (iv) such other party engages in any improper act or omission resulting or intending to result in material gain, personal enrichment, or other personal benefit to such party at the expense or to the detriment of the terminating party, or
- (v) such other party files a petition in bankruptcy or is adjudicated as a bankrupt, or
- (vi) such other party institutes or has instituted against him or it any procedure in bankruptcy court or elsewhere for reorganization or rearrangement of his or its financial affairs, or has a receiver of his or its assets or property appointed because of insolvency, or makes a general assignment for the benefit of creditors;

(l) If Buyer is an individual, the Distributorship shall terminate immediately upon the death of Buyer; and

(m) Upon any termination of the Distributorship by either party and for any reason, Seller may, but shall have no obligation to, repurchase from Buyer any Goods shipped to Buyer on or before the effective termination date, and may, but shall have no obligation to, ship any Goods to Buyer or to Buyer's customers on or after the date upon which notice of termination is given.

17. General Provisions.

(a) Buyer agrees to secure any license necessary to export the Goods from the U.S. to another country and warrants to Seller that Buyer will not export the Goods from the U.S. to another country without the necessary and appropriate license(s).

(b) Seller's failure at any time to enforce any rights strictly in accordance with same shall not be construed as creating a waiver or modification of the specific terms and conditions hereof. Seller's right and remedies are cumulative and not alternative. No waiver by Seller of any condition, or of the breach of any term, covenant, representation or warranty, contained in these Terms of Sale, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed as a further or continuing waiver of that or any other condition or of the breach of any other term, covenant, representation or warranty set forth in these Terms of Sale. If any part hereof is adjudged invalid, illegal or unenforceable, the remainder will not be affected thereby.

(c) All materials, processes, supplies and/or services that become a part of the item(s) delivered by the Seller shall conform to Purchase Order, drawing(s) and specification(s) requirements. Seller's system shall assure: Purchase order flowdown of applicable quality and technical requirement, suppliers capability to produce items and adequate methods of assuring compliance.

(d) All words used herein shall be construed to be of such gender and number as the circumstances require.

(e) Titles to sections are for convenience purpose only and do not form part of the agreement.

(f) Seller shall not be obligated to perform any term hereof if such performance might, in the opinion of Seller's legal counsel, violate any governmental law, regulation or ordinance (U.S. or foreign, Federal state or local) and Seller shall not be liable for damages as a result of such nonperformance. Buyer intends to be legally bound hereby.

(g) From time to time, Seller may provide Buyer with Know-How (as defined below) which, in Seller's sole opinion, is relevant to Buyer, including, but not limited to, all relevant engineering changes and current developments affecting the application of Seller's Goods. "Know-How" means identification of customers, uses, marketing data and sales techniques relating to the sale of Seller's Goods, including, but not limited to, invoices, quotations, proposals and recommendations. In addition, if Seller deems it reasonable and necessary, Seller may provide Buyer with technical consultation on customer problems, including material selection, designs, and participation in joint sales calls. Buyer shall not, directly or indirectly, communicate, disclose or divulge to any third party any Know-How or other information made available by Seller to Buyer without the prior written consent of Seller.

(h) Seller and Buyer expressly acknowledge and agree that Buyer is an independent contractor, and that except as otherwise stated herein Seller shall have no right to control or direct the manner in which Buyer performs its obligations and duties hereunder. Buyer shall not have the right or authority to create any obligation, liability or contract of any kind on behalf of Seller. Buyer shall pay when due all federal, state, city and local income taxes, unemployment taxes, and social security taxes applicable to its business operations, and Seller shall have no liability therefore. Neither party shall have any authority to bind the other party in any manner, and neither party shall be liable in any manner for the debts and liabilities of the other party. If Buyer is an individual, Buyer shall not be deemed an employee of Seller and he shall not participate in any pension plan, profit sharing plan, or welfare or benefit plan in which participation is limited to employees of Seller. These Terms of Sale shall not be construed to create an employment relationship or partnership, limited partnership, joint venture, association, agency or other similar business enterprise, organization or relationship between either Seller and Buyer, or between Seller and Buyer's employees.

(i) Any notice required or permitted to be given shall be made in writing, and shall be deemed to be given if sent by registered or certified mail, postage prepaid, return receipt requested, or if personally delivered, or if sent by a nationally recognized overnight delivery service, or if sent by telecopy if confirmed as set forth above, to the parties' respective addresses as set forth at the end of these Terms of Sale. Any party may from time to time change the address to which notices to him or it shall be given by giving notice of such address change in the manner provided for herein. Notices shall be deemed to be received either immediately upon personal delivery, or seventy-two (72) hours after deposit in the United States mail, or twenty-four (24) hours after transmission by any other method above specified.

(j) These Terms of Sale shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, administrators, successors and permitted assigns. Seller shall have the right to assign these Terms of Sale to any person or entity which purchases or succeeds to all or any portion of the business or assets of Seller. These Terms of Sale may be assigned by Buyer only with the written consent of Seller. Any attempted assignment of these Terms of Sale, any sale of stock of Buyer (if Buyer is a corporation), any change in control of Buyer or any change in the management of Buyer without the prior written consent of Seller shall constitute a material breach of these Terms of Sale.

(k) These Terms of Sale set forth all the promises, covenants, agreements, conditions and understandings between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions pertaining thereto, express or implied, oral or written, and cannot be modified, altered, supplemented, terminated or amended except by a writing signed by both parties.