



SALES TERMS AND CONDITIONS

TERMS AND CONDITIONS: THESE TERMS AND CONDITIONS APPLY TO ALL SALES OF GOODS BY AF GLOBAL CORPORATION OR ITS APPLICABLE AFFILIATE ("SELLER"). ACCEPTANCE OF BUYER'S ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF THE QUOTATION PROVIDED BY SELLER, THESE TERMS AND CONDITIONS, AND ANY SPECIFICATIONS OR OTHER TERMS ATTACHED HERETO, IF ANY (COLLECTIVELY, THIS "AGREEMENT"). NOTWITHSTANDING ANY ORAL OR WRITTEN STATEMENT MADE BY BUYER, SELLER'S ACCEPTANCE OF BUYER'S ORDER DOES NOT IN ANY WAY WHATSOEVER CONSTITUTE ACCEPTANCE OF BUYER'S TERMS AND CONDITIONS, AND BUYER'S TERMS AND CONDITIONS ARE NOT A PART OF THE CONTRACT BETWEEN BUYER AND SELLER UNLESS AN AUTHORIZED OFFICIAL OF SELLER EXPRESSLY AGREES IN WRITING TO ACCEPT SUCH TERMS AND CONDITIONS OR ANY PART THEREOF. **This Agreement is the final, complete and exclusive agreement of the parties and shall not be altered, amended, supplemented or canceled without the express written consent of an authorized official of Seller.**

1. **Acceptance of Orders.** All Orders are subject to Seller's prior credit approval. No Order shall be binding on Seller until accepted in writing by an authorized official of Seller. Seller is under no obligation to accept any Order from Buyer.

2. **Delivery.** The Delivery Date is based on the Seller's projected lead time, current availability of raw materials, current inventory of Product, commitments from supplier's and supplier's advice. All shipment dates are approximate. All shipments shall be EX WORKS Seller's facility. (INCOTERMS 2010), unless otherwise specified. The method and route of shipment shall be at Seller's discretion, unless Buyer supplies explicit reasonable instructions in writing at least five (5) business days prior to shipment. Seller reserves the right to make partial shipments. Buyer shall pay all applicable transportation charges (including insurance). If Buyer fails to fulfill the terms of payment, Seller may defer further shipments, or may, at its option, cancel the unshipped balance. **Seller reserves the right, prior to making any shipment,**

to require from Buyer satisfactory security for performance of Buyer's obligations.

3. **Cancellation or Rescheduling.** Buyer may request changes, including rescheduling or canceling, of either all or a portion of an Order for a catalog Product. Seller reserves the right to reject any change or cancellation to an Order for a catalog Product requested by Buyer or to accept such and assess a fifteen percent (15%) restocking fee. Further, Seller reserves the right to assess a 25% restocking fee for all orders returned between 7 to 12 months past the Order delivery date. No returns will be allowed past 12 months old. Changes, rescheduling, or cancellation of custom Orders must be submitted in writing at least twenty (20) days prior to the ship date and must be preapproved in writing by an authorized official of Seller. Seller reserves the right to reject any change or cancellation of a custom Order. Any change or cancellation of a custom Order accepted by Seller will be subject to a change or cancellation fee equal to the estimated cost, including Seller's time and materials, incurred by Seller associated with such custom Order.

4. **Delays.** Buyer shall be responsible for any additional costs incurred by Seller as a result of any delay in shipment caused by Buyer and the price for the balance of the Order shall be adjusted to reflect the prices and costs in effect at the time of the actual shipment. Unless otherwise agreed in writing by an authorized official of Seller, if Buyer delays shipment of any catalog Product by more than ten (10) days, Seller may cancel the Order and assess Buyer a fifteen percent (15%) restocking charge.

5. **Packaging.** Product shipped by Seller will be packed and packaged according to Seller's then current packaging methods. Special packaging or packing requirements shall be quoted by Seller and mutually agreed to in advance.

6. **Shortages.** Claims for shortages must be made in writing within ten (10) days of Buyer's receipt of shipment, or Buyer is deemed to have waived such claims.

7. **Returns.** All returns or credits must be authorized in advance by obtaining a Return Materials Authorization

("RMA") number from Seller. Products returned to Seller without an RMA number will be returned to Buyer at Buyer's cost and expense. All returns must be shipped freight prepaid, DDP Seller's, facility (INCOTERMS 2010) at Buyer's cost and expense.

8. Payment Terms. Buyer agrees to pay the full Sales Price as specified in Seller's invoice. The Sales Price does not include and Buyer is responsible for paying, without limitation, any applicable shipping and delivery charges, insurance, and all sales, use, duties, VAT, excise or other taxes; licensing and/or registration fees or stamps; and spotting, switching, or drayage charges at the destination which relate to Buyer's acquisition and use of the Product. Any amounts not paid by Buyer when due under this Agreement shall accrue interest from the due date until the date Seller receives payment at the lesser of (i) 18% per annum or (ii) the highest rate allowed by applicable law. Buyer grants Seller a purchase money security interest in the Products. Seller may file a copy of this Agreement as a financing statement at any time. All amounts specified in this Agreement are in U.S. Dollars. Payments shall be made in U.S. Dollars at the location specified on Seller's invoice. Stated discounts will be allowed if paid in cash on or before the specified time, except terms charged as net cash, and items charged for labor, teaming, express, freight, parcel post and second hand material. All payments are due net thirty (30) days from the invoice date, unless otherwise agreed in writing by an authorized official of Seller.

9. Escalation. The prices quoted by Seller are subject to revision to cover increases in material and or labor costs, increases or decreases in freight rates, and increased taxes imposed by any federal, state, or other governmental entity, which become effective between the date of Seller's acceptance of the Order and the date when the Product is shipped.

10. Limited Warranty. Seller warrants that Seller's standard catalog Product will conform to Applicable Specifications (the "Specifications") for such Product for the period equal to the earlier of (i) eighteen (18) months from the date of shipment or (ii) twelve (12) months from the date the Product is placed in service ("Warranty Period"). If Buyer notifies Seller that the Product is not in conformance with the Specifications during the Warranty Period, Seller will, without charge to Buyer, (i) repair the Product so that it conforms to the

Specifications, (ii) or replace the Product with conforming Product, or (iii) at the sole discretion of Seller, upon the return of the Product, refund Buyer's payment for that Product and terminate all other obligations regarding this Agreement as to that Product, **with such remedy being the sole and exclusive remedy of Buyer for breach of this warranty. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, SELLER SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY OPERATION OF LAW OR OTHERWISE, CONTAINED IN OR DERIVED FROM THIS AGREEMENT, ANY ORDER, OR IN ANY OTHER MATERIALS, BROCHURES, PRESENTATIONS, SAMPLES, MODELS OR OTHER DOCUMENTATION OR COMMUNICATIONS WHETHER ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, WHICH WOULD EXTEND BEYOND THE WARRANTIES EXPRESSLY CONTAINED HEREIN. SELLER DOES NOT WARRANT THAT THE OPERATION OF THE PRODUCT WILL BE ERROR FREE OR UNINTERRUPTED. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THE PRODUCT OR COMPONENTS THEREOF WHICH SELLER DID NOT MANUFACTURE.**

11. Limitation of Liability. BUYER AGREES THAT REGARDLESS OF THE CLAIM OR OTHER FORM IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT BY BUYER AGAINST SELLER AND/OR ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, REPRESENTATIVES, AGENTS, SUBCONTRACTORS, AND EMPLOYEES (COLLECTIVELY, THE "SELLER PARTIES") THAT NONE OF THE SELLER PARTIES SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, PROMOTIONAL EXPENSES, INJURY TO REPUTATION, OR LOSS OF CUSTOMERS. Buyer's recovery from the Seller Parties or any of them for any claim in any way arising from or related to the Product or this Agreement shall not in the aggregate exceed the lesser of (i) the quoted Sales Price for the Product or (ii) the amount actually paid to Seller by Buyer for the Product irrespective of the nature of the claim, whether in contract, tort, warranty, strict liability, product liability or otherwise and whether arising in

whole or in part from the negligence of any of the Seller Parties.

12. Defense of Infringement Claims. Buyer will defend at its expense any suit brought against any Seller Party alleging that the Products manufactured to Buyer's specifications infringes any patent, copyright, or trade secret and will pay all damages finally awarded against Seller Parties in such suit.

13. General Provisions. Seller is not liable for its failure to perform any of its obligations hereunder during any period in which performance is delayed by Buyer or circumstances beyond Seller's reasonable control, including, without limitation, acts of God, war, terrorism, civil disturbance, court order, labor dispute, third party nonperformance, acts of third parties, or failures, fluctuations or no availability of materials, components, electrical power, heat, light, air conditioning, computing or information systems or telecommunications. Seller, in providing the Products hereunder, is acting as an independent contractor and does not undertake by any Order or otherwise to perform any obligation of Buyer, or to assume any liability for Buyer's business or operations. In operating and using the Product, Buyer shall comply with all applicable laws and regulations for such operation and use. There are no third party beneficiaries to this Agreement or any part or specific provision of this Agreement. Buyer shall, at its own expense, obtain all licenses, permissions or authorizations to use, purchase, export or import the Product, as may be required by any governmental authority. If Seller is the prevailing party in any legal proceedings brought by or against Buyer to enforce any provision of this Agreement, Seller shall be entitled to recover against Buyer the reasonable attorneys' fees, court costs and other expenses incurred by Seller. Neither party may assign this Agreement or any Order without the prior written approval of the other party, except that no approval shall be required for Seller to (i) assign this Agreement or an Order to an affiliate or purchaser of Seller or (ii) use subcontractors to fulfill its obligations. Any assignment made by either party in contravention of this Section 13 shall be null and void for all purposes. If any provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision were omitted. Failure to enforce any term of this Agreement

will not waive future enforcement of such terms. This Agreement shall be governed under the laws of the state of Texas, without regard

to Texas principles of conflicts of law, as to all matters, including, without limitation, matters of validity, construction, effect, performance and remedy. Any suit or proceeding hereunder shall be brought only in Harris County, Texas, and each of the parties consents to the personal jurisdiction of the courts, state and federal, located therein. Each party agrees to waive any objection that the state or federal courts of Harris County, Texas, are an inconvenient forum. The rights and obligations of the Parties under this Agreement shall not be governed by the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods.

14. Foreign Corrupt Practices Act. Buyer shall comply with all relevant and applicable laws and regulations relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§78dd-1, et. seq.) and The UK Bribery Act irrespective of the place of performance, and (ii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in Buyer's country or any country where performance of this agreement or delivery of goods will occur.