



## **GENERAL TERMS AND CONDITIONS FOR LU-VE U.S INC. SALES**

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## 1. SCOPE AND APPLICATION

- 1.1. These General Terms and Conditions of U.S. Sales (hereinafter "GCS") apply to each Sale between LU-VE US Inc., affiliated to the LU-VE Group (the "Company") and their Customers and will be integral part of any commercial offer, Order Confirmation and contract entered into by the Parties.
- 1.2. It is to be understood that the Sale will in no way be governed by the Customer's purchase terms or conditions, not even in the event that reference is made to the latter or the same are contained in any documentation from the Customer. For the avoidance of doubt, the Agreement does not include or incorporate any of Customer's terms or conditions, and all of Customer's terms and/or conditions are rejected.
- 1.3. All Sales will be governed by these GCS and the documents indicated below which must in any case be in written form. In the event of any conflict, discrepancy or contradiction between them, the order of priority of the documents is as follows:
  - a) Order Confirmation;
  - b) Special Conditions of Sale ("SCS");
  - c) Framework Contract;
  - d) Offer from Company;
  - e) GCS.
- 1.4. These GCS are usually delivered to the Customer in written form or in electronic version together with the commercial offer, contract or invoice and in any case are made available on the Company's website where the Customer can learn about them at any time. Unless otherwise provided for by the law applicable to these GCS, the approval of the same takes place by signing by the Customer or by Customer's request that Company submit an offer to Customer.
- 1.5. In the event that one or more provisions of these GCS are invalid or ineffective, this invalidity will not affect the validity and effectiveness of the remaining provisions contained in these GCS.
- 1.6. If the Sale involves several companies of LU-VE Group, GCS of the Company issuing the sales invoice will apply.

## 2. DEFINITIONS AND INTERPRETATION

Unless otherwise defined within these GCS, the following terms will have the meaning attributed to them as specified below:

- 2.1. "**Company**" means the Company of the LU-VE Group which, depending on the case, is party to the Sale;
- 2.2. "**Company Group**" means Company, its affiliates, auxiliaries and collaborators and each one's officers, directors, shareholders, employees, consultants and representatives.
- 2.3. "**Customer**": means any company, entity or individual who purchases the Products as part of its commercial or professional activity;
- 2.4. "**GCS**": means these General Terms and Conditions of U.S. Sales;
- 2.5. "**Framework Agreement**": means the contract which might be entered into by the Parties having as its object specific terms and conditions of ongoing Sales between them;
- 2.6. "**Order**": means the order issued by the Customer towards the Company including request for Products;
- 2.7. "**Order Confirmation**": means the confirmation of the Order sent by the Company to the Customer;
- 2.8. "**Parties**": means the Company and the Customer;
- 2.9. "**Price**": means the Price as specified in the Order Confirmation;
- 2.10. "**Product**": means any product, good or application sold by the Company as described in the Order Confirmation, including, without limitation, the following:
  - a) Unit coolers, air cooled condensers, CO2 gas coolers, dry coolers, industrial application, hereinafter "**Air Heat Exchangers**";
  - b) Heat exchangers for refrigeration, air conditioning, mobile applications and home appliances, hereinafter "**Coils**";
  - c) Glass doors and closing systems for professional, industrial and domestic refrigeration equipment, hereinafter "**Glass Doors**";
  - d) Glass doors and hotel rooms and lift cars mirror equipped with IoT technology, hereinafter "**Digital Signage**".
- 2.11. "**Sale**": means any sale of Products by the Company;
- 2.12. "**SCS**": means the Special Conditions of Sale agreed between the Parties.
- 2.13. "**Warranty Period**" means:
  - a) For Air Heat Exchangers, Glass Doors, Digital Signage: twenty-four (24) months from the date Company tenders the Product to Customer for shipping.
  - b) For Coils: twelve (12) months from shipping.

## 3. ORDER AND ORDER CONFIRMATION

- 3.1. The Customer must submit the Order by e-mail in the formulation requested by the Company. It must contain the type and quantity of the Products and the delivery time requested.

- 3.2. In the case of purchases of Coils, Orders for values of less than \$1,000.00 USD for each type of Product ordered are not allowed, except with the written consent of the Company. Orders of spare parts and sample Orders are excluded from this limitation.
- 3.3. The Order sent by the Customer can be cancelled within 48 hours of issue. If not cancelled within that time, the Order shall be considered irrevocable. Unless otherwise agreed, in any case the Company will be bound exclusively to the content of the Order Confirmation from the moment it is sent to the Customer. Should the Parties agree on changes to the Order before an Order Confirmation has been issued by the Company, the Customer will be required to issue a new Order.
- 3.4. All special requests must be agreed in writing with the Company before issuing the Order. In each case, the Company reserves the right to verify its feasibility and reject the Order.
- 3.5. If the Order received from the Customer is accepted, the Company will send the Customer an Order Confirmation containing the type and quantity of the Products, the price of the Products, place and terms of delivery, billing methods and payment deadlines. In the event of delays or inability to produce within the terms indicated in the Order Confirmation for reasons not attributable to the Company, the Company will promptly inform the Customer in order to agree on new delivery terms, it being understood that the Company will be expressly released from any liability for such a change in the terms. In such cases the Customer will not have the right to request the payment of interest on any advances already paid.
- 3.6. Any changes to any confirmed Orders requested by the Customer must be agreed in advance in writing with the Company before submitting a change to the Order Confirmation. Any request for changes or communications by the Customer during the order process that do not have a written form will not be taken into consideration. The Company reserves the right to accept changes at its discretion. In the event that changes to the Order Confirmation lead to delays in delivery times, new delivery times will be agreed between the Parties, it being understood that the Company will be expressly relieved of any liability for delays with respect to the original Order Confirmation. In the event that changes to the Order Confirmation requested by the Customer lead to price changes, the Company will inform the Customer, in order to reach an agreement to that effect with the latter. Changes to the price and delivery terms will not entitle the Customer to cancel the Order. The Order modified according to the aforementioned requirements shall be confirmed in a written modified Order Confirmation issued by Company.
- 3.7. The Company, after informing the Customer, reserves the right to make constructive changes to the technical data or models of the goods sold deriving from technological developments or modernizations that do not in any way lead to a worsening of the parameters, technical characteristics and functionality of the object of the Sale.
- 3.8. If the Customer cancels an Order already confirmed and an advance payment has not been requested or made, the Customer shall reimburse Company for the costs and expenses incurred in connection with the Order Confirmation including cost of material purchased to fulfil the Order and labor costs and expenses incurred in performing the Order. In addition, Customer shall pay to Company, as liquidated damages and without prejudice to the Company's right to prove greater damages, an amount equal to ten percent (10%) of the value of the Order Confirmation, as amended or modified in accordance with these GCS. Unless otherwise specified in the Order Confirmation, the Sale between the Parties is considered concluded at the time of the issue of a complete Order Confirmation by the Company.
- 3.9. All catalogues, brochures, advertising information and technical data Customer or Company may provide to the other before the Order Confirmation are for information only. The drawings of the Products that will be object of the Sale if delivered together with the offer are of informative nature. The actual and binding designs will be sent to the Customer only as part of the Order Confirmation. The Parties agree to consider as binding and effective for the purposes of the Sale only the technical data and parameters of the Products confirmed in writing by the Company in the Order Confirmation. The Company may use materials suggested or requested by the Customer if the Company's technical department deems them reliable and usable for production.

#### 4. PRICE AND PAYMENTS

- 4.1. The Price of the Product will be defined in the Order Confirmation or, failing that, contained in an offer document or in a price list. The Price is quoted for delivery ex works, excluding taxes, insurance, duty, transport costs or other additional costs related to the supply, unless otherwise agreed between the Parties.
- 4.2. The Company will promptly inform the Customer of any updates to the Product price lists. The updated price list will come into force 15 days after notification to the Customer and, unless otherwise agreed between the Parties, will apply to deliveries of Orders already issued. The Customer will have the right to cancel, as a consequence of the price list update, Orders issued and not yet delivered by communicating it in writing to the Company within 15 days of receiving the new price list. Silence will be considered as a waiver of exercising the right of withdrawal. In any case, the Customer will be required to purchase the Products, if the production has already been completed, and to refund the components purchased for their production.
- 4.3. The Company may request, at its reasonable discretion, an advance payment from the Customer upon issuance of the Order Confirmation. This advance shall serve as partial consideration for the Company's preparatory activities and commitment to fulfilling the Order. In the event of cancellation of the Order by the Customer, the Company may retain the advance payment as partial compensation for the costs incurred

and potential business opportunities lost. For clarity, this advance shall not be considered a confirmatory deposit or a security deposit under applicable law.

- 4.4. In the event of a change in the costs of raw materials or other variables subject to market quotations, as well as the inflation-related increases, the Company will have the right to adjust the prices being supplied, subject to notification to the Customer.
- 4.5. The payment must be valid, clearing and received in the Company's bank account within the agreed deadline and indicated in the invoice or *pro forma* invoice. The Customer will not be allowed to compensate or withhold the payments for any reason, unless specifically agreed in writing by an officer of Company.
- 4.6. In the event of late payment, interest will accrue on the amounts due for commercial transactions calculated at the rate of one and one-half percent (1½%) per month not to exceed eighteen percent (18%) per annum or other limitations of applicable law. The obligation to pay interest in the event of late payments is automatic and not subject to the need to send a formal notice to pay. If the delay is not insignificant, the Company may order the Customer to make full payment of the Price within a reasonable period, after which it will have the right to declare the contract terminated if payment is not made.
- 4.7. The transfer of ownership of the Products to the Customer will take place only at the same time as the passage of the risk on the Products envisaged by the Incoterms delivery terms established for the Sale.
- 4.8. The discovery of defects on the Products will not entitle the Customer to withhold the payments due.
- 4.9. The Company reserves the right to make the acceptance of future Orders or the delivery of pending Orders dependent on compliance with the payment obligations or payment of overdue debts relating to previous Orders. If the Customer does not respect the payment obligations, the Company will be authorized to cancel Orders already confirmed.

## 5. DELIVERY

- 5.1. The Company undertakes to make every effort to deliver by the confirmed date stated in the Order Confirmation and subsequent amendments, provided that all the necessary information for the correct execution of the Sale have been received by the Company. If no delivery time has been agreed, the Company shall have the right to schedule delivery at its discretion.
- 5.2. Except as stated in Paragraph 5.3 below, Company shall deliver the Product to Customer Ex Works Company's facility (Incoterms® 2020) save and except that Company may assist loading the Product. Partial deliveries shall be permitted. Upon tender of delivery of Product to Customer, title to the Product and all risk of loss or damage shall pass to Customer. Delivery times are approximate and are dependent upon prompt receipt by Company of all material and information necessary to proceed with the completion of the Order Confirmation without interruption.
- 5.3. If any part of the Product cannot be shipped when ready due to any cause for which Company is not solely responsible, Company may place such Product in storage (which may be at the place of manufacture). In such event, (i) Company shall notify Customer of the placement of any Product in storage, (ii) Company's delivery obligations shall be deemed fulfilled and title and all risk of loss or damage shall thereupon pass to Customer, (iii) any amounts otherwise payable to Company upon delivery shall be payable upon presentation of Company's invoices therefor and its certification as to such cause, (iv) promptly upon submission of Company's invoices, Customer shall reimburse Company for all costs and expenses incurred by Company, such as preparation for and placement into storage, handling, storage, inspection, preservation and insurance, and (v) when conditions permit and upon payment of all amounts due hereunder, Company shall assist and cooperate with Customer in any reasonable manner with respect to the removal of any Product which has been placed in storage.
- 5.4. In the event of a delay in delivery of supplies or materials to Company needed to complete an Order, the Company will be relieved of any liability for failure to deliver the Products within the agreed terms. Should there be causes of force majeure or delays of the Company's suppliers, the Parties will agree on the extension of the delivery term as far as reasonably necessary. In no case can this delay in delivery give rise to any liability of the Company in towards the Customer. Furthermore, Customer shall have no right of cancellation or withdrawal in case of late in deliveries by suppliers to Company.
- 5.5. If, after twenty (20) days from the notification of Products ready, the Customer or the carrier appointed by Customer has not collected the Products or has not provided the Company with the information necessary for the shipment or consented to it, the Company will have the right to deposit the Products at an external warehouse and, in addition to being reimbursed for Company's actual costs and expenses incurred, Customer shall be obligated to pay Company an amount equal to 1.5% (one point five percent) of the gross Price of the Products to be collected per week of delay to reimburse Company for the costs and expenses of Company's overhead which Company will incur in storing the Products. After the expiration of twenty (20) days from notification of goods ready without the picking of the goods has occurred for reasons attributable to the Customer, the risk of damage will be automatically transferred to the Customer. The warranty of the Products must be understood as starting from the same term. Furthermore, the Company will be authorized to issue the invoice despite the failure to take delivery of the goods.

## 6. INSPECTION AND ACCEPTANCE

- 6.1. The Customer will be responsible for inspecting the Products upon delivery at the destination. Any divergence from the Order Confirmation, defect, damage to the Products or qualitative or quantitative discrepancy with respect to the Order Confirmation must be promptly reported to the carrier and the Company in writing within eight (8) days of delivery together with appropriate supporting documentation. In the absence of such written notification and supporting documentation, the Product will be considered accepted.
- 6.2. Any inspection visits by the Customer to the Company's plants must be agreed in advance between the Parties.

## 7. WARRANTY

- 7.1. All Products manufactured and sold by Company are warranted during the Warranty Period to be free from manufacturing defects. With respect to all Products not manufactured by Company, Company gives no warranty and only the warranty, if any, given by the manufacturer shall apply.
- 7.2. If a Product fails to meet the warranty set forth in Paragraph 7.1 and the defect is the responsibility of Company, as Customer's sole and exclusive remedy, Company shall correct the failure, at its sole option, (i) by repairing any defective or damaged part or parts of the Product, or accessory, or (ii) by making available at Company's factory, Ex Works (INCOTERMS 2020), any necessary repaired or replacement parts, or replacement accessory, or (iii) after issuance of prior written approval by Company, by having Customer repair any defective or damaged part or parts of the Product, or accessory, in accordance with Company's product technical repair instructions and at Company's expense, which shall not exceed the prior written approved amounts and rates. If such failure or defect cannot be corrected by Company's reasonable efforts, the parties shall negotiate an equitable adjustment in the purchase price of the Product, part, or accessory. Any repaired or replacement part or Product or accessory furnished hereunder shall have no additional warranty and shall have no extension of the Warranty Period.
- 7.3. Company's obligations under Paragraph 7.2 shall not apply to any Product or part thereof, or to any part or accessory sold by Company, which (i) has been modified or otherwise altered other than pursuant to Company's written instructions or written approval, or (ii) is normally consumed in operation, or (iii) is not properly stored, installed, used, maintained or repaired, or (iv) has been subjected to any other kind of misuse or detrimental exposure or has been involved in an accident, or (v) has been disabled or adversely affected by any vendor product (other than a vendor product sold or supplied by Company).
- 7.4. Paragraphs 7.1, 7.2 and 7.3 set forth the exclusive remedies for claims based upon defects in or nonconformity of the Product, or of parts and accessories sold by Company, whether the claim is in contract, warranty, tort (including negligence), strict liability, equity, quasi-contract, or otherwise. Upon the expiration of the Warranty Period, all such liability shall terminate. Such foregoing warranties are in lieu of all other warranties whether oral, written, expressed, implied or statutory. NO IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, ARE HEREBY DISCLAIMED.
- 7.5. To take advantage of the warranty, the Customer will be obliged to notify the Company of the defect within 8 (eight) days of delivery in the event of obvious or easily detectable defects, or from their discovery in all other cases. The date of discovery of any defects that are not easily detectable must be documented. In the event of a delay in this communication, the warranty is voided. The notification of the Product failure must contain photographic documentation, label data, description of the discovered failure.
- 7.6. Defective products or parts of them must be kept with care by the Customer until the definitive ascertainment of the Customer's rights and eventually returned at the request of the Company.
- 7.7. If the detected defect is attributable to the Company, the Company will take action to repair or replace the defective product in accordance with Paragraph 7.2. It is understood that the cost for shipping of the product deemed to be defective will be borne by the Customer and reimbursed by the Company upon ascertaining its liability.
- 7.8. In no case will the Company be liable for defects due to any of the following: transport of the Product; improper use of the Product; failure to comply with the instructions for installation, start up, operation, use, maintenance and conservation of the Product provided by the Company; storage in unsuitable areas, such as to endanger the integrity of the packaging of the Products; tampering, repairs or modifications made by the Customer or by third parties; deterioration of parts of the Product (by way of example but not limited to internal parts, casings, headers) due to the Customer's incorrect assessment of the characteristics of the environment of use, or negligence in installation and maintenance whether executed by the Customer or third parties.
- 7.9. The warranty referred to in this Section 7 can only operate if the Products for which the intervention of the Company is requested are equipped with labels bearing the Company's trademark, serial number or work order.
- 7.10. If the presence of Company personnel at the place of installation of the Products is required for repair or inspection, the Customer will guarantee the necessary safety and security measures required by applicable

law. In the absence of adequate safety and security measures, the Company may refuse to carry out the intervention or inspection.

- 7.11. The qualitative or quantitative complaint relating to part of the Products supplied does not release the Customer from the obligation to pay the remaining part of the ordered Products.

## 8. LIMITATION OF LIABILITY

- 8.1. The liability of the Company in relation to any damage, including damage resulting from defects in the Products, divergence of the Product from what is included in the Order Confirmation, breach of contracts, pre-contractual and extra-contractual liability, is limited as indicated in these GCS.
- 8.2. The Company shall have no liability for negligible or immaterial non-compliance. For example, minor defects that do not make the Product unsuitable for use constitute not negligible and/or immaterial non-compliance.
- 8.3. If the Company is determined to be responsible for any damage, this liability will be limited (i) exclusively to the damage that the Company could have foreseen with due diligence, (ii) to an amount equal to double the value of the defective Products purchased in case of purchase of Air Heat Exchangers, Glass Doors and Digital Signage, (iii) to an amount equal to four times the value of the defective Products purchased in case of purchase of Coils.
- 8.4. Company shall have no liability for, and Customer releases Company from any claim related to, any damage, cost or expense other than to the Product manufactured and sold by Company including, without limitation, interruption of activity, loss of use, loss of earnings, costs for replacement plants, costs for identifying the causes of the damage, appraisals, water and environmental pollution, etc.) These limitations of liability are also valid to the extent that the Company is liable for the behavior of its auxiliaries, collaborators or other companies of LU-VE Group.
- 8.5. UNDER NO CIRCUMSTANCE AND IN NO EVENT SHALL COMPANY GROUP BE LIABLE FOR, AND CUSTOMER HEREBY RELEASES COMPANY GROUP FROM, AND HOLDS COMPANY GROUP HARMLESS AND INDEMNIFIES COMPANY AGAINST, ANY AND ALL CLAIMS FOR CONSEQUENTIAL DAMAGES. FOR PURPOSES OF THE FOREGOING, THE TERM "CONSEQUENTIAL DAMAGES" SHALL MEAN AND INCLUDE: (i) ANY AND ALL INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR CONSEQUENTIAL LOSSES OF ANY NATURE WHATSOEVER (WHETHER OR NOT FORESEEABLE) HOWSOEVER CAUSED OR ARISING, WHETHER UNDER CONTRACT, BY VIRTUE OF ANY FIDUCIARY DUTY OR IN TORT (INCLUDING NEGLIGENCE), AS A CONSEQUENCE OF BREACH OF ANY DUTY (AT LAW OR OTHERWISE) OR UNDER ANY OTHER LEGAL DOCTRINE OR PRINCIPLE WHATSOEVER WHETHER RECOVERABLE AT COMMON LAW OR IN EQUITY; AND (ii) DAMAGES OR LOSSES, WHETHER DIRECT OR INDIRECT AND WHETHER OR NOT FORESEEABLE, FOR LOST PRODUCT OR PRODUCTION, LOST PROFIT OR REVENUE, LOSS OF DATA, LOST BUSINESS, LOSS OF OR INABILITY TO USE PROPERTY AND EQUIPMENT, LOSSES FROM BUSINESS INTERRUPTIONS, LOSSES RESULTING FROM FAILURE TO MEET OTHER CONTRACTUAL COMMITMENTS OR DEADLINES, OR LOSSES FROM DOWNTIME OF FACILITIES.

## 9. INTELLECTUAL PROPERTY

- 9.1. All intellectual and industrial property rights of the Company including, without limitation, all trade secrets, all patent rights for inventions, designs, trademarks, know-how, technical specifications, whether they have been registered or are in the process of registration and/or de facto, as well as any application or registration relating to those rights and any other rights or form of protection of a similar or equivalent effect, will remain the property of the Company and their communication or use in the context of any Sale does not create, in relation to them, any right or claim of the Customer.
- 9.2. The Customer will use the Company's intellectual and industrial property rights only if and to the extent that this is expressly permitted in writing by the Company and will refrain from using and / or requesting the registration of trademarks similar to those owned by the Company.
- 9.3. If the Customer intends to register a patent, a design or utility model for a product that contains components marketed by the Company, the Customer must first obtain the consent of the Company and, in any case, the Company's right to market this component without any limitation remains unaffected.
- 9.4. If, during the collaboration between the Parties for the realization of the Sale, new applications are designed or new products developed, these will be the exclusive property of the Company which will be able to dispose of them without limitations, without prejudice to any co-ownership or license rights established by the Parties with a specific separate agreement.
- 9.5. In the event that the Company uses products or technologies provided by the Customer, the Company will in any case be released from any liability in the event that third parties make claims relating to the Customer's non-compliance with their intellectual property rights.

## 10. CONFIDENTIALITY

- 10.1. Customer covenants and agrees to keep confidential and not to disclose to third parties all Company Confidential Information whether or not marked as "confidential." "Company Confidential Information" shall mean and include documentation and information Company provides, discloses or shares with Customer and all information relating to the Company's operations and products including, without limitation, the

following: know-how; software; production processes and/or procedures; manufacturing processes and/or procedures; product specifications; product operational parameters; Company economic and financial data; Company business and commercial strategies; drawings; models; distribution processes; operational parameters of Company Products; Product, equipment, services and operations cost and pricing information; engineering drawings and designs; vendor and supplier lists and data; facility maintenance and operational procedures; methodologies for the development of facility operations and maintenance procedures and manuals; software code and software development needs and procedures; systems, data and knowledge bases for facility operations; information dealing with unique operational processes, procedures, services and products of Company; any of the foregoing data or information stored on any Company electronic or digital system or maintained in tangible format including, without limitation, data files and text files; all data and information similar to or related to the foregoing items.

- 10.2. The Customer also undertakes not to disclose any information concerning the commercial terms or arrangements of the Parties, its implementation and its results.
- 10.3. The Customer shall use Company Confidential Information for the sole purpose of implementing the commercial agreements and/or transactions of the Parties and shall refrain from any different usage. Company Confidential Information shall not be communicated to employees or consultants unless and only to the extent they have a need-to-know such Company Confidential Information for the implementation of the commercial agreements and/or transactions, provided that such employees and consultants are informed and undertake to comply with the confidentiality and non-disclosure obligations set out in this Section 10. The Customer shall be responsible of the compliance of such obligations by its employees and consultant.
- 10.4. The obligations set forth in this Section 10 do not apply to information which was already in the public domain before the establishment of the commercial agreements between Customer and Company or were disclosed with the prior consent of the Company or by order of Judicial Authority.
- 10.5. The obligations referred to in this Section 10 will continue, as well as for the entire duration of the commercial transactions between the Parties, for the further period of 10 (ten) years from the end of the same even if the Sale has been terminated by one of the Parties.

## 11. CODE OF ETHICS

- 11.1. The Customer is aware that the Company has adopted and implements a Code of Ethics, containing the behavioral principles that guide the Company, available on the company website, which the Customer declares to have read and understood. The Customer adheres to the principles of the Code of Ethics and undertakes to respect its contents, principles, procedures and, in general, to refrain from any behavior or conduct contrary to or incompatible with Company's Code of Ethics. The Customer also undertakes to respect and ensure that all the employees and affiliates of the Customer comply with all the principles contained in the aforementioned documentation. The violation of the rules provided for by the aforementioned documents will represent a serious contractual breach. The Customer indemnifies the Company for any costs, expenses, claims, penalties or damages that may arise as a result of the violation of the aforementioned Code of Ethics by the Customer or the employees or affiliates of the Customer.
- 11.2. Without limiting or restricting the generality of paragraph 11.1, Customer represents and warrants that it is familiar with the provisions of the U.S. Foreign Corrupt Practices Act and agrees that it will not violate or cause Company to violate such Act in connection with this Agreement. Notwithstanding any other provision of this Agreement to the contrary, Company may terminate this Agreement immediately upon learning that Customer has engaged in acts or conduct or allowed others to engage in acts or conduct that may constitute a violation of the U.S. Foreign Corrupt Practices Act or upon learning that Customer has violated or caused Company to violate the Foreign Corrupt Practices Act. In the event of termination for such cause, Company may retain from, or charge to, Customer an amount equal to all costs and expenses Company has incurred.

## 12. TERMINATION AND SUSPENSION

- 12.1. In the event of the Customer's non-compliance with the material obligations of the Sale, the Company will have the right to suspend the execution of any Order or to terminate the Sale with immediate effect by giving notice to the Customer seven (7) days before the termination becomes effective. Material obligations include, but are not limited to, the following: Customer payment obligations set forth in Section 4; all terms and provisions protecting the intellectual property rights of the Company set forth in Section 9; confidentiality and non-disclosure obligations set forth in Section 10; and the obligations contained in Section 11 requiring compliance with the Company's Code of Ethics and the U.S. Foreign Corrupt Practices Act.
- 12.2. The Company also reserves the right to declare the Sale terminated or suspended if the economic or financial conditions of the Customer adversely impact, in Company's sole judgment, Customer's ability to fulfil its obligations towards the Company. In such case the Company will be released from any liability for delay in delivery.
- 12.3. The Company reserves the right to suspend the execution of Orders if its receivables due from the Customer exceed the amount of credit established by the Company and the Customer does not fall below that threshold through advance payment or payments of issued invoices. The deadline for the delivery of the Products will be automatically extended if the execution of these orders is suspended.

- 12.4. The Company also reserves the right to suspend the execution of the Orders if there are open disputes on previous Orders until the causes and responsibilities have been ascertained.
- 12.5. Without prejudice to the above provisions, the Company will also have the right to claim damages arising from the breach of contractual obligations by the Customer.

### 13. FORCE MAJEURE

- 13.1. Company shall not be liable in any way for failure or delay in carrying out its obligations where the carrying out of such obligations is prevented, hindered, delayed or rendered uneconomic by any cause whatsoever beyond Company's control and in particular, but without prejudice to the generality of the foregoing, by (a) act of God, war, riot, civil commotion, (b) Government controls, restrictions or prohibitions or any other Government act or omission whether local, state or national, (c) declaration of a local, state or national emergency, (d) catastrophic event such as a pandemic, fire, flood, tornado or other extreme climatic conditions, (e) sabotage, accident, breakdown of plant or machinery, (f) strikes or lock-outs, trade disputes or labor disturbance or (g) difficulty or increased expense in obtaining labor, materials or transportation or other circumstances affecting the completion of Customer's order by the normal means.
- 13.2. Any breaches of contract by the Company due to force majeure will not result in any liability of Company to Customer. If there are time limits for the execution of the contractual services, these will be considered extended for a period equivalent to in the period during which it is still impossible to perform the service. In the event that the force majeure event lasts for more than ninety (90) days, the Company will have the right to terminate the Sale with written notice to the Customer with ten (10) days' notice after reimbursement of payments received within such date for non-performed sales, without any right of Customer to compensation for any damages and without any right of Customer to reimbursement of any other costs and expenses incurred for any reason whatsoever. It is understood that if the act of force majeure does not prevent the Company from partially performing its service, the Customer will be obliged to pay the agreed amount for the services performed.

### 14. APPLICABLE LAW AND JURISDICTION

- 14.1. Customer and Company agree that all transactions between them and all issues and disputes related to such transactions shall be construed and subject to, the law and jurisdiction of the state of Texas, without application of its conflicts-of-laws or choice of law principles and without application of or reference to the United Nations Convention on Contracts for the International Sale of Goods. Customer and Company further agree to the express exclusion of the application of the Vienna Convention of 1980 on the international sale of goods.
- 14.2. Any issue, dispute or claim arising with regard to the Agreement or an Order or any transaction between Company and Customer shall be resolved exclusively through litigation in the U.S. District Court for the Eastern District of Texas, Tyler Division or state courts situated in Cherokee County, Texas. Customer and Company agree that the U.S. District Court for the Eastern District of Texas, Tyler Division, or any state court with appropriate subject-matter jurisdiction situated in Cherokee County, Texas shall have exclusive jurisdiction to resolve any dispute between them, and each of them hereby consents to the exclusive jurisdiction of such Courts. The Parties consent to the exclusive jurisdiction and venue of these courts, waive any defenses they have regarding jurisdiction and waive any and all objections on the grounds of improper venue, forum non-conveniens, or any similar basis. THE PARTIES HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION ARISING FROM OR RELATED TO OR TO ENFORCE THE TERMS OF THIS AGREEMENT AND, IF NECESSARY, AGREE TO LITIGATE ALL SUCH DISPUTES BEFORE A JUDGE.

Date

\_\_\_\_\_

Signature of the Customer

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The following items are expressly approved: 3 (Order and Confirmation of Order), 5 (Delivery), 6 (Inspection and Acceptance), 7 (Warranty), 8 (Liability), 9 (Intellectual Property), 10 (Confidentiality) and 14 (Applicable Law and Jurisdiction).

Date

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Signature of the Customer

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