



## HARBISONWALKER INTERNATIONAL STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS AND SERVICES

**1. Agreement.** These terms and conditions for the sale of goods and services (“**Terms**”) exclusively govern the sale of the goods (“**Goods**”) and services (“**Services**”) by HarbisonWalker International, Inc., a member of the Calderys Group, together with its affiliates including Calderys do Brasil Ltda., HarbisonWalker International Limited and HarbisonWalker International Corp. (collectively, “**Seller**”) to you, the buyer, purchaser, or transferee of the Goods and/or Services (“**Buyer**”). Seller’s acceptance of any order of Buyer is conditioned on Buyer’s assent to these Terms. Buyer must notify Seller immediately if it objects to or rejects these Terms; prior objection or rejection is ineffective. Buyer accepts these terms by authorizing or acquiescing in Seller’s delivery of Goods or commencement of performing the Services. Seller hereby expressly objects to and rejects any and all additional or different terms proposed by Buyer, irrespective of when delivered or where located, and no such different or additional terms shall form part of this contract or be binding on Seller.

**2. Prices and Payments.** Buyer must confirm Seller’s current prices before placing any order. All purchase orders must reflect Seller’s then-current pricing or Seller may refuse such order. Buyer shall pay Seller within thirty (30) days from the date of Seller’s invoice, unless a different payment term is set forth in Seller’s invoice. Seller may at any time require Buyer to prepay or pay cash on delivery in connection with any order. Seller may, without liability to Buyer, suspend or withhold delivery or performance if Seller has reason to believe that Buyer’s credit or ability to pay is impaired and Buyer fails to provide adequate assurance to Seller’s satisfaction. All payments shall be made in U.S. Dollars. Payment shall be delivered as specified in Seller’s invoice or EDI payment instructions. Buyer shall pay interest on all late payments at the lesser rate of 3.0% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, collection agency fees, dispute resolution costs, court costs plus reasonable legal fees incurred by Seller in bringing any legal action. Seller shall have the right to set off against any monies due Seller hereunder. Seller shall have all remedies available to Seller under this contract, by law, and/or equity.

**3. Taxes.** All prices are exclusive of all sales, use, and excise taxes, and any other taxes, duties, tariffs, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. To the extent legally permissible, all present and future taxes imposed by any federal, state or local authority of any country which Seller may be required to pay or collect, upon or with reference to the sale, purchase, transportation, delivery, storage, use or consumption of the goods or services, including taxes upon or measured by the receipts therefrom shall be for the account of Buyer. Purchases are subject to state or local use tax, unless expressly exempt from taxation. Buyer assumes responsibility for correctly assessing and remitting any use tax due to the proper jurisdiction(s). Buyer shall promptly reimburse Seller for any taxes paid or withheld on Buyer’s behalf, and Buyer shall hold Seller harmless for any and all costs, penalties, or interest that may be imposed relative to Buyer’s taxes by any government authority.

**4. Shipment and Delivery.** All shipments are made EXW (Incoterms 2020) Seller’s facility, unless otherwise agreed between Buyer and Seller. All shipping dates are approximate. Seller shall use reasonable efforts to meet Buyer’s requested delivery date, but in no event shall Seller be responsible for any delivery delays, no matter the cause. Seller reserves the right to deliver by partial or advance delivery or performance, which may be invoiced separately by Seller. Seller shall, if feasible, inform Buyer thereof in advance. Each shipment is a separate sale. Seller will use commercially reasonable efforts to comply with Buyer’s requests regarding transportation mode, but Seller reserves the right to make alternate transportation arrangements, even if at a higher cost to Buyer, if the transportation specified by Buyer is deemed by Seller to be unavailable or unsatisfactory. Seller reserves the right to transport Goods on pallets. In no event shall Seller be liable for any injury to persons or damage to property as a result of the use, misuse, or failure of any new, used, or recycled pallets. For all international shipments, Seller shall be the exporter of record, and Buyer shall be named importer of record. Seller reserves the right to exceed or fall short of any delivery of Goods up to 5%. Buyer shall accept and pay for any such delivery or excess quantity without any right to setoff, claim, objection, or rejection. The invoice amount may be adjusted accordingly by Seller.

**5. Inspection.** Buyer shall conduct a timely inspection of the Goods or Services upon receipt, but in no event more than ten (10) days after receipt. Failure of Buyer to notify Seller of any defect or nonconformity within ten (10) days of receipt shall be deemed an acceptance of the Goods and Services and waiver of any claim that the Goods or Services are defective or nonconforming. Buyer’s use of the Goods or Services in connection with its operations shall be deemed an acceptance of the Goods or Services and a waiver of all claims of defect or nonconformity. Rejection shall be made in accordance with these Terms and within the inspection period set forth herein, or Buyer’s rejection shall be deemed waived. There shall be no revocation of acceptance. Buyer’s inspection or failure to inspect shall not delay payment.

**6. Variation.** Except as expressly agreed to in a writing signed by Seller, the Goods and Services furnished hereunder shall be provided in accordance with Seller's standard practices. All Goods, however, including those produced to meet an exact specification, shall be subject to Seller's variations consistent with industry standards with respect to: (i) dimension, weight, straightness, section, composition and mechanical and/or physical properties, (ii) normal variations in surface and internal conditions and in quality, and (iii) deviations from tolerances and variations consistent with practical testing and inspection methods.

**7. Changes.** Each party may at any time propose changes in the schedule or scope of goods in the form of a draft change order. Some changes requested by Buyer may require analytical or investigative work to evaluate the change, and this evaluation work may be charged to Buyer at prevailing rates. The parties may mutually agree on the length of time within which a decision shall be made regarding the change. If mutually agreed, the changes will be documented in a written document signed by authorized representatives of each party, along with any equitable adjustments in the contract price or schedule. Seller is not obligated to proceed with the changed schedule or scope until both parties agree in writing. Changes in applicable laws, rules, and regulations shall be treated as a change within the meaning, and subject to the requirements, of this section. Unless otherwise agreed by the parties, pricing for additional work arising from changes in laws, rules, and regulations shall be at time and material rates.

**8. Return Policy.** Only upon receipt of written consent from an authorized representative of Seller, may Buyer cancel this order and return unused, undamaged Goods. Seller, in its sole discretion, may withhold consent for any reason, including, without limitation, resalability, shelf-life, returning less than full pallet, or any other reason. All returns shall be subject to a restocking fee of twenty percent (20%) of the purchase price of the entire order. Buyer may request Seller to manufacture products outside Seller's stock items in accordance with Buyer's specifications ("**Custom Products**"). Buyer expressly agrees that Custom Products are not returnable and are excluded from Seller's Return Policy.

**9. Consignment.** In the event Buyer purchases Goods on consignment, Buyer agrees that Article 9 of the Uniform Commercial Code ("**UCC**") shall govern the transaction. Seller shall reserve title to the Goods, and Consignee shall assume the risk of loss, theft, or damage to the Goods upon delivery of the Goods at the facility designated by Buyer. As collateral security for the full payment for the Goods, Buyer hereby grants to Seller a lien on and/or security interest in and to all of the right, title, and interest of Buyer in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. Buyer shall not place any liens or encumbrances upon the Goods, and upon Seller's demand, the Goods shall be returned to Seller immediately. Buyer authorizes Seller, pursuant to Article 9 of the UCC, to file UCC financing statements, as Seller may deem appropriate, in such jurisdictions as Seller may deem appropriate as a consignor to perfect its interest in the Goods and proceeds thereof, and Seller is authorized to take such other steps as may be necessary to secure Seller's rights in the Goods.

**10. Title and Risk of Loss.** Risk of loss shall pass to Buyer upon tender of Goods to the carrier or performance of the Services. Any charges at the delivery point for spotting, switching, handling, storage and other accessorial services, shall be borne by Buyer. Seller shall have the right to assess storage and handling charges for Goods left in Seller's possession after notification to Buyer that the Goods are available to ship. Should Buyer fail to pick-up the Goods within thirty (30) days after notification to Buyer that the Goods are available to ship, the Seller shall be entitled to terminate the order without any liability for such termination. In this case, the Buyer shall bear (i) the costs of the Goods and/or (ii) all costs incurred by the Seller including, without limitation, recycling, or disposal costs. Title to the Goods and Services shall pass to Buyer upon Seller's receipt of full payment for the Goods. As collateral security for the full payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under (i) if in the United States, the Uniform Commercial Code; or (ii) if in Canada, the Personal Property Security Act (Canada); or (iii) if in the U.K., the Bills of Sale Act. Seller shall have the right to file any and all documents and take any action it deems necessary to fully establish protection of its security interest in the Goods; however, the failure of Seller to file any such document shall not in any way act as a waiver of Seller's right to such security interest.

**11. Limited Warranty; Disclaimers.**

a. Seller warrants that (i) the Goods will be furnished in accordance with the written specifications of Seller or written specifications of Buyer that Seller approves in writing, and at the time of delivery will be free from defects; and (ii) the Services will be performed in a workmanlike manner. Claims for damaged or nonconforming Goods and Services must be made, in writing, promptly, and in no event later than ten (10) days following delivery of the Goods or performance of the Services for Buyer, or all such claims shall be deemed waived. Buyer shall set aside, protect, and hold any claimed

nonconforming or defective Goods or Services without further processing until Seller has an opportunity to inspect and advise of the disposition, if any, to be made of such Goods or Services. In no event shall any Goods be returned, reworked, or scrapped by Buyer without the express written authorization of Seller.

b. Any technical advice provided by Seller with respect to the use of Goods or Services sold hereunder shall be for informational purposes only, and Buyer expressly acknowledges and agrees that Seller makes no representation or warranty, nor assumes any obligation or liability for any such advice, which Buyer accepts at its sole risk.

c. Notwithstanding the foregoing, no representation or warranty whatsoever is provided with respect to any Goods sold on an “as is” basis. OTHER THAN THE LIMITED WARRANTIES SET FORTH IN THIS SECTION 11, SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS AND SERVICES. SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO ORAL STATEMENT OF ANY SELLER PERSONNEL, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, SHALL OPERATE TO MODIFY THE LIMITED WARRANTIES AND DISCLAIMER SET FORTH HEREIN. SELLER MAKES NO WARRANTY REGARDING THIRD PARTY PRODUCTS, WHICH ARE PROVIDED “AS IS.”

## **12. Limited Remedies; Limitation of Liability.**

a. Seller will replace, at the delivery point specified herein, any Goods furnished hereunder that are confirmed by Seller to be defective or otherwise fail to conform to Seller’s warranty or these Terms, or, at Seller’s option, repay the price paid for such Goods plus any transportation charges paid by Buyer in addition to such price less any scrap value realized by Buyer for such Goods. Seller shall not be liable for breach of warranty set forth herein if the defect arises because Buyer failed to follow Seller’s instructions as to the storage, installation, commissioning, use or maintenance of the Goods or Services. With respect to any defect in the Services, Seller, at its option and upon proper notice from Buyer, shall re-perform the Services at no cost to Buyer or refund the monies paid for such Services. THESE REMEDIES ARE BUYER’S SOLE REMEDIES WITH RESPECT TO ANY DEFECT OR NONCONFORMITY IN THE GOODS OR SERVICES.

b. Seller’s maximum liability for any defective Goods or Services and any breach of these Terms shall be limited to the difference between the delivered price of the Goods covered hereby and the market price of such Goods at Buyer’s destination at the time of such breach, and in no event shall Seller’s liability exceed the price of the Goods or Services at issue.

c. IN NO EVENT SHALL SELLER BE LIABLE FOR PERSONAL INJURY, PROPERTY DAMAGE, LOSS OF PROFIT, DELAY, OR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER ARISING FROM CONTRACT, BREACH OF CONTRACT, TORT, SELLER’S NEGLIGENCE, STRICT LIABILITY, OR ANY EXPRESS OR IMPLIED WARRANTY. NO CLAIMS OF ANY NATURE, WHETHER BASED ON CONTRACT OR OTHERWISE, MAY BE BROUGHT AGAINST THE SELLER OR ANY OF ITS AFFILIATES MORE THAN TWELVE (12) MONTHS AFTER THE DELIVERY OF THE GOODS OR SERVICES TO BUYER.

**13. Termination.** In addition to any other remedies available to Seller, Seller may terminate any order with immediate effect, if Buyer: (i) fails to perform its obligations under or otherwise breaches any provisions of these Terms or any other contract between Buyer and Seller or any of Seller’s affiliates; (ii) ceases to carry on its business substantially as such business is conducted on the date of the contract between Buyer and Seller and such change in circumstances modifies Seller’s obligations or impairs either party’s ability to discharge its obligations under this contract; (iii) becomes insolvent or institutes or suffers the institution of bankruptcy, reorganization, receivership, or assignment for the benefit of creditors; (iv) generally becomes unable to pay its debts as they become due; (v) has entered into any term, condition or provision of this or any other contract between Buyer and Seller that becomes invalid or illegal under any applicable law, rule or regulation; or (vi) is subject to an event of force majeure listed in Section 16 of this contract and it continues for a period of more than thirty (30) days. Buyer may not cancel or modify any order once placed with Seller.

## **14. Intellectual Property.**

a. All right, title, and interest in and to all intellectual property rights in the Goods and Services are and shall remain the exclusive property of Seller. No Services are performed as works made for hire. Seller extends to Buyer only such rights in and to the Goods and Services as are minimally necessary to use the Goods and Services as delivered by Seller.

b. Buyer shall indemnify Seller with respect to any claim that the Goods or Services infringe the intellectual property rights of a third party to the extent any such claim arises out of or relates to Seller’s compliance with designs, instructions, or specifications furnished by Buyer.

**15. 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, 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 these Terms is confidential, can be used solely for the purpose of supplying Goods or Services and may not be disclosed or copied unless authorized in advance by an authorized representative of Seller writing. Upon Seller’s request, Buyer shall promptly return all documents and other materials received from Seller. In addition to all other remedies available to Seller, Seller is entitled to equitable relief, including, without limitation, injunctive relief, against Buyer and its representatives to prevent the breach or threatened breach of this provision and to secure its enforcement. Seller grants no right or license in or to its confidential or proprietary information.

**16. Force Majeure.** Except for the payment of money, neither party shall be liable or responsible to the other, nor be deemed to have defaulted under or breached any obligation, for any failure or delay in fulfilling or performing, when and to the extent such failure or delay is caused by or results from acts beyond the impacted party’s reasonable control, including, without limitation, acts of God, flood, fire, earthquake or explosion; epidemics, pandemics, quarantines, war, invasion, hostilities (whether declared or not), terrorist threats or acts, riot or other civil unrest; government order or law; actions, embargoes or blockades in effect on or after the date of this contract; action by any governmental authority; national or regional emergency; strikes, labor stoppages or slowdowns or other industrial disturbances; supply shortages; and shortage of adequate power or transportation facilities (each, a “**Force Majeure Event**”). In addition, if due to a Force Majeure Event or any other cause, Seller is unable to produce sufficient Goods to meet all demands from Buyers and internal users, Seller shall have the right to allocate production among its customers and plants in any manner which Seller deems necessary in its sole discretion, without liability to Buyer whatsoever.

**17. Export Control.**

a. Buyer shall, at its sole cost and expense, comply with all laws, ordinances, orders, rules and regulations related to Buyer’s use or resale of the Goods, including but not limited to any laws and regulations in respect of export control, dual use, embargoes and/or sanctions, and shall at its own cost obtain any necessary permits and licenses and furnish Seller on demand with any required information in respect thereof. These Terms authorize export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. The Goods may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. Government or as otherwise authorized by U.S. law and regulations.

b. Buyer hereby acknowledges and agrees that Buyer’s breach of any of the terms of this Section 17 at any time shall be a material default of these Terms.

c. Buyer hereby agrees to indemnify, defend, and hold harmless Seller and its officers, directors, and employees from and against all claims, demands, damages, costs, penalties, and fines arising in connection with any alleged breach by Buyer or its agents of this representation and warranty. Seller may reject, suspend, or cancel any transaction to a Specially Designated Nationals and/or Blocked Persons published by the Office of Foreign Assets Control (“**OFAC**”) without penalty or payment for the rejected, suspended, or cancelled Goods or Services, and/or cancel or terminate this contract, or any other applicable agreement with Seller, in whole or in part, if it has a good faith basis for believing that Buyer or its agent has violated or intends to violate the above representation and warranty. Buyer will pay all penalties and damages incurred as a result of its breach of the terms of this section.

**18. Compliance.**

a. Code of Business Conduct and Ethics. The Buyer shall comply with Calderys’ Code of Business Conduct and Ethics available at [www.calderys.com](http://www.calderys.com), which Buyer acknowledges having read and adheres to. Calderys may modify said Code from time to time, and Buyer shall comply with any such amendments upon becoming aware of the same.

b. Anti-Corruption. Buyer represents and warrants to Seller that Buyer and its agents and employees are in compliance and shall comply with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act and UK Bribery Act 2010. Buyer and its agents and employees, in connection herewith or in connection with any other business transaction related to Seller, have not, directly or indirectly, offered, paid, promised, or authorized the giving of money or anything of value, nor will Buyer or its agents and employees, directly or indirectly, offer, pay, promise, or authorize the giving of money or anything of value to any government official for the purpose of influencing any act or decision of such government official. Seller may terminate performance and cancel any order immediately, without liability to Buyer, if Seller has a reasonable basis to believe that Buyer has violated this provision. Seller may terminate performance immediately and without liability to Buyer by written notice for cause in the event that (i) Seller forms a reasonable belief that Buyer or one of its directors, officers, employees, subcontractors, agents, representatives, vendors, or any other third parties that it engages in connection with the Goods or Services has engaged in conduct in violation of these Terms or applicable anti-corruption laws; or (ii) the continuation of providing Goods or Services would violate any applicable anticorruption laws. In the event of such

termination, all existing contractual obligations (including further compensation) may be declared null and void by Seller, and all offers outstanding at the time of termination shall be deemed rescinded.

c. **Data Protection.** Buyer and its agents and employees are in compliance and shall at all times comply with any applicable state, national and international laws and regulations regarding the protection of (personal) data. Buyer is obliged to enter into further data protection agreements such as data processing agreements, if necessary. The Seller may collect personal identification information (name, email, phone) (the “**Personal Data**”) of individuals related to the Buyer with whom the Seller is working with (the “**Personal Data Subjects**”), on the lawful basis of execution of a contract. The Seller will process such Personal Data in order to contact the Personal Data Subjects, execute the Buyer’s order, monitor the satisfaction of the Buyer and manage any claim arising out of or in connection with the Buyer’s order. The Seller may send information about its goods, services or events in connection with the Buyer’s order. All Personal Data Subjects have the right at any time to stop the Seller from contacting them for marketing purposes. The Seller will retain the Personal Data for a 3-year period after the end of its performance of its contractual obligations, unless a longer duration is allowed by the applicable law. The Seller undertakes to take all physical, logistical, and organizational measures to prevent any alteration, deterioration and/or unauthorised access to the Personal Data of the Personal Data Subjects. This includes ensuring the security of access to premises and IT systems, data encryption and network security policies. The Seller limits access to Personal Data to its employees who reasonably need to access them with regards to the purpose of processing said data. All Personal Data Subjects have the following rights: right to access, right to rectification, right to erasure, right to restrict or object processing, right to data portability, right to bring a complaint before a national supervisory authority. The Seller has one (1) month to any such request, unless it is complex or there are too many requests, in which case the Seller may require up to three (3) months to respond. Due to its presence in a number of countries, the Seller may be led to transfer the Personal Data of the Personal Data Subjects to foreign countries for processing by its employees, including countries which are considered to be “non-adequate” by European Union bodies. In this case, the Seller ensures that the necessary guarantees are put in place to maintain a level of personal data protection that is equivalent to that of the European Union. In case of questions about the Seller’s processing of Personal Data or if a Personal Data Subject would like to exercise one of its Personal Data protection rights, the Seller can be contacted, at any moment, at the following details: [data.privacy@calderys.com](mailto:data.privacy@calderys.com)

d. **Conflict Minerals.** Seller’s Goods do not contain: tantalum, tin, tungsten and gold, or the derivatives of the minerals cassiterite, columbite-tantalite and wolframite, respectively.

## 19. **Choice of Law; Jurisdiction.**

a. If the transaction is with HarbisonWalker International, Inc., and/or its affiliates based in the USA, or Calderys do Brasil Ltda., these Terms and all acts or omissions in connection with this contract shall be governed by and construed under the laws of the Commonwealth of Pennsylvania, without regard to its choice of law provisions and any claim, controversy, or dispute shall be resolved solely and exclusively in the state and federal courts situated in Allegheny County, Pennsylvania, and Buyer and Seller expressly consent and submit to the jurisdiction of such courts.

b. If the transaction is with HarbisonWalker International Limited, these Terms and all acts or omissions in connection with this contract shall be governed by and construed under the laws of England and Wales, without regard to its choice of law principles and any claim, controversy, or dispute shall be resolved solely and exclusively in the courts situated in London, England, and Buyer and Seller expressly consent and submit to the jurisdiction of such courts.

c. If the transaction is with HarbisonWalker International Corp., these Terms and all acts or omissions in connection with this contract shall be governed by and construed under the Canadian Sale of Goods Acts, without regard to its choice of law principles and any claim, controversy, or dispute shall be resolved solely and exclusively in the courts situated in Ontario, Canada, and Buyer and Seller expressly consent and submit to the jurisdiction of such courts.

d. For all transactions between Seller and Buyer, the United Nations Convention for Contracts for the International Sale of Goods shall not apply to these Terms or this contract.

**20. Entire Agreement.** These Terms constitute the complete, exclusive and fully integrated agreement between Buyer and Seller with respect to the Goods and Services, and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Goods and Services. No terms or conditions (whether consistent or inconsistent) other than those stated herein and no agreement or understanding in any way purporting to modify these terms and conditions of sale, including without limitation a course of dealing, course of performance, or trade usage, shall be binding on Seller unless expressly agreed upon in writing by authorized representative of Seller. In the event of a conflict between these Terms and any purchase order (or other document expressly made a part of this contract) signed by both parties, these Terms shall prevail. Buyer’s placement of an order or release for, or taking delivery of, any product of Seller that is the subject of this contract shall constitute acceptance of the Terms. Seller hereby objects to and rejects any and all additional or different terms proposed by Buyer, whether contained in Buyer’s purchase orders, production releases or shipping release forms, or related correspondence or any other documents including emails. Catalogs,

circulars and similar pamphlets of Seller are issued for general information purposes only and shall not be deemed to modify the provisions hereof.

**21. Construction.** No provision of these Terms may be construed against the Seller as the drafting party. The English language version of this document will control in the event of any disagreement over any translation.

**22. Assignment.** Buyer shall not assign any of its rights or delegate any of its obligations under these Terms without the prior written consent of Seller. Any purported assignment or delegation in violation of the foregoing shall be void.

**23. Sourcing.** Seller reserves the right to source all or a portion, including, without limitation, raw materials, of the Goods or Services from third parties. Buyer acknowledges and agrees that Seller may share with any of its third-party sources any specifications, drawings, schematics, plans, or other information necessary to provide the Goods or Services to Buyer. Seller shall have no responsibility for meeting Buyer's country-of-origin product content, raw materials, or product qualification requirements (if any) unless Seller agrees in writing of such requirement at the time Buyer places its order with Seller.

**24. Waiver.** Waiver by Seller of any breach of these provisions shall not be construed as a waiver of any other breach.

**25. Third Party Beneficiaries.** Other than rights of Seller's affiliates under this contract, no third parties will have any rights under this contract.

**26. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in these Terms 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.

**27. Notices.** All notices, requests, 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 their purchase orders or invoices. All Notices shall be delivered by personal delivery, nationally recognized overnight courier, or certified or registered mail (in each case, costs prepaid and proof of delivery required). Except as otherwise provided in these Terms, 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 set forth in this section.

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

**29. 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 contract including, but not limited to, the following provisions: Compliance, Confidential Information, Choice of Law, and Survival.

**30. Amendment and Modification.** These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of Seller.

**31. Recycling.** Seller has the right, but not the obligation, to recollect and reuse ("**Recycle**") the Goods from the equipment in which they were utilized by Buyer, after they are demolished. Seller shall inform Buyer within due time, if Seller wants to exercise its right to Recycle. If Seller exercises its right to Recycle, Buyer shall (i) inform Seller within due time of the demolition of the Goods, (ii) enable Seller to enter the premises of Buyer and recollect the Goods, even after the end of the contract, and (iii) guarantee to (re)assign all necessary rights to the Goods to Seller. Until the Goods are picked up from Seller, Buyer is responsible for the safe keeping of the Goods and shall not use them for any purpose that could interfere with the right to Recycle of Seller.

**32. Miscellaneous.** Seller may send a sales representative to Buyer's site to observe the installation of Goods at Buyer's site (the "**Observation**"). Buyer expressly agrees that Seller shall not be held liable for any and all claims, losses, damages arising out of the Observation. Buyer expressly agrees that this section shall survive the termination of this contract and shall not be waived by either party without the express written consent of the other. Buyer shall indemnify, defend, and hold harmless Seller from any and all direct or third-party disputes, losses, claims, and damages, including, without limitation, any and all attorneys' fees and costs, arising out of or pertaining to the Goods and/or performance of Services.