

## GENERAL TERMS AND CONDITIONS FOR THE SALE OF GOODS

### 1. APPLICABILITY.

(a) The general Terms and Conditions for the Sale of Goods (these “**Terms**”) are the only terms which govern the sale of the goods (“**Goods**”) by the seller Lightning Bolt & Supply, Inc. (“**Seller**”) to the buyer named on the reverse side of these Terms (“**Buyer**”).

**(b) These Terms comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Additional or different general Terms and conditions in any purchase order or other document from Buyer or any attempt by Buyer to change these Terms are objected to and rejected regardless of when Buyer submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.**

### 2. DELIVERY.

Seller will deliver Goods within a reasonable time after the receipt of Buyer's purchase order, subject to availability of finished Goods. Seller shall not be liable for any delays, loss or damage in transit. If for any reason Buyer fails to accept delivery of any of the Goods: (i) risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

### 3. NON-DELIVERY.

(a) The quantity of any installment of Goods as recorded by Seller on dispatch from Seller’s place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

(b) The Seller shall not be liable for any non-delivery of Goods (even if caused by Seller’s negligence) unless Buyer gives written notice to Seller of the non-delivery within ten (10) days of the date when the Goods would in the ordinary course of events have been received.

(c) Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

### 4. QUANTITY.

If Seller delivers to Buyer a quantity of Goods of up to five (10%) percent, more or less, than the quantity set forth in the Sales Confirmation, Buyer shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Sales Confirmation adjusted pro rata.

5. SHIPPING TERMS.

Delivery shall be made F.O.B. point of shipment (the “**Delivery Point**”) OR F.O.B point of origin (Lightning Bolt, Baton Rouge, LA) using Seller’s standard method of packaging and shipping of such Goods.

6. TITLE AND RISK OF LOSS.

Title and risk of loss passes to Buyer upon delivery of the Goods as indicated in the shipping terms. As collateral security for the 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.

7. AMENDMENT AND MODIFICATION.

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

8. INSPECTION AND REJECTION OF NONCONFORMING GOODS.

(a) Buyer shall inspect the Goods upon receipt. Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods within ten (10) days of delivery and furnishes such written evidence or other documentation as reasonably required by Seller. “**Nonconforming Goods**” means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection with returning the Goods. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller’s facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer’s shipment of Nonconforming Goods, ship to Buyer, at Buyer’s expense and risk of loss, the replaced Goods to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in **Section 12** are Buyer’s exclusive remedies for the delivery of Nonconforming Goods. Except as provided under **Section 12**, Buyer has no right to return Goods purchased pursuant to these Terms.

9. PRICE.

(a) Buyer shall purchase the Goods from Seller at the price(s) (the “**Price(s)**”) set forth in Seller’s published price list in force as of the date of Buyer’s purchase order/that Seller accepts Buyer’s purchase order. If the Price(s) should be increased by

Seller before delivery of the Goods to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased prices were originally inserted herein, and Buyer shall be billed by Seller on the basis of such increased prices.

(b) All Prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes, provided that Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel or real or personal property or other assets.

#### 10. PAYMENT TERMS.

(a) Buyer shall pay all invoiced amounts due to Seller thirty (30) days from the date of Seller's invoice. Buyer shall make all payments hereunder by wire transfer, check, credit card, and in U.S. dollars.

(b) Buyer shall pay interest on all late payments at the lesser of the rate of one and one-half [1.5%] percent 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, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for ten (10) days following written notice thereof.

(c) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

#### 11. LIMITED WARRANTY.

(a) Seller warrants to Buyer that at the time of delivery of the Goods that such Goods will materially conform to the specifications set forth in Seller's published specifications in effect as of the date of manufacture/shipment and will be free from material defects in material and workmanship.

**(b) EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 11(A),] SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; OR (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

(c) The Seller shall not be liable for a breach of the warranty set forth in **Section 11** unless: (i) Buyer gives written notice of the defect, reasonably described, to Seller within ten (10) days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to

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

(d) The Seller shall not be liable for a breach of the warranty set forth in **Section 11** if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow industry standard regarding the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of Seller.

(e) Subject to Section 11(c) and Section 11(d) above, with respect to any such Goods, Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Goods to Seller.

**(f) THE REMEDIES SET FORTH IN SECTION 11(d) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11(A).**

## 12. LIMITATION OF LIABILITY.

**(a) IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

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

## 13. COMPLIANCE WITH LAW.

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

14. WAIVER.

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

15. FORCE MAJEURE.

The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached these Terms, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

16. 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.

17. NO THIRD-PARTY BENEFICIARIES.

These Terms are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

18. GOVERNING LAW.

All matters arising out of or relating to these Terms are governed by and construed in accordance with the laws of the State of Louisiana without giving effect to any choice or conflict of law provisions or rules that would cause the application of the laws of any jurisdiction other than those of the State of Louisiana.

19. MEDIATION.

In the event Buyer or Seller contends there has been a breach or violation of these Terms, Notice shall be provided to the other party. Within thirty (30) days of the Notice, the Parties shall engage in mediation in Baton Rouge, Louisiana, before a mediator selected by the Parties, and the costs shall be shared equally. If the claim is not resolved in mediation, a civil action may be commenced as provided in paragraph 20.

20. SUBMISSION TO JURISDICTION AND FEES

Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the state or federal court in the Parish of East Baton Rouge, State of Louisiana, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding arising from or related to the Terms. The prevailing party in any action or proceeding shall be awarded reasonable attorneys fees and costs incurred in such action.

21. NOTICES.

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

22. SEVERABILITY.

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

