



McLanahan Corporation

TERMS & CONDITIONS OF SALE

1 PARTIES TO A LEGALLY BINDING AGREEMENT - We, McLanahan Corporation, are extending an offer for the sale of goods and/or services to you. The particular goods and/or services being offered are described in more detail in the quotation or other written order issued by us. The following terms and conditions explain certain details of our offer to sell such goods and/or services. If you accept our offer and these terms and conditions, we will both become parties to a legally binding agreement (this "agreement"). **The terms of this agreement prevail over any terms or conditions contained in any other documentation and expressly exclude any of your general terms and conditions contained in any purchase order or other document issued by you, which are hereby rejected. Fulfillment of your order does not constitute acceptance of your terms and conditions and does not serve to modify or amend this agreement.**

2 OWNERSHIP OF MATERIALS WE MAY PROVIDE - We may provide you with quotations, estimates, prints, drawings, sketches, models, samples, tools, computer or other apparatus programs, technical or business information, or data (collectively, "Materials"). Although we provide the materials and/or programs for your use in connection with the goods and/or services sold to you, they remain our property, and you obtain no rights, title or interest in or to such Materials. You promise that you will keep such Materials strictly confidential and that neither you, nor any of your employees or contractors, nor anyone else, will disclose the Materials without our prior written permission. If you choose not to accept our offer or if our agreement is cancelled for any reason, we may ask you to return any Materials we previously provided to you. If we ask you to return the Materials, you promise to promptly return them at your own expense.

3 CANCELLATION OF THE AGREEMENT; TERMINATION COSTS - If you accept the quotation and offer (so long as it has not previously been rescinded by us) it becomes a legally binding agreement between us. Neither of us may cancel this agreement unless we both agree in writing to cancel it. If you decide to cancel this agreement without first reaching a new written agreement with us, or if you fail to pay us any money you owe us under this agreement, or if you fail to fulfill any of your promises you made by accepting this agreement, we may treat the order as having been wrongfully terminated by you, in which case the agreement is immediately terminated upon our providing written notice to you. If you terminate the order without reaching a new agreement with us first, you agree to pay us an amount to compensate us for the damages we incurred as a result of your having wrongfully terminated the order. You agree that our damages, for which you will be liable, will be calculated as the greater of:

(a) ten (10%) percent of the original price you agreed to pay us; or

(b) the total of all labor and material costs we incurred in fulfilling your order before it was terminated, plus an allowance for our overhead expenses and our lost profits resulting from your termination of the order.

If you refuse to pay us the damages for which you are liable or any other amounts owed by you, you agree that we may collect from you any incidental expenses we may incur in recovering such amounts from you, including court costs, attorneys' fees, and any other incidental expenses authorized under applicable law. You agree that we may cancel any order or require full or partial payment in advance by you if you file for bankruptcy, if your solvency is in question, or if a trustee or receiver is appointed for you.

4 PRICES AND TERMS OF PAYMENT - The amount of any and all present or future governmental, state, or municipal taxes, duties, excises, license fees and other charges applicable to goods sold or shipped will be the responsibility of the party to which those charges are applicable unless we have otherwise and specifically agreed to a different arrangement in our agreement. Our prices are free carrier (FCA) at our designated facility (Incoterms 2020), unless stated otherwise in the attached quotation or otherwise agreed upon in writing by us. Free carrier prices do not reflect any cost for delivering the item to your location. You will be responsible for any delivery costs if you need us to ship the goods to you. If we quoted you delivered prices, they are based on carrier rates in effect at the time of our quote for delivery to your delivery point. Should the carrier's rates be changed, you agree to be responsible for any increase. The prices we quoted in this offer will remain in effect for thirty (30) days unless we stated otherwise in the attached quotation or otherwise agreed upon in writing by us. We reserve the right to increase or decrease prices at any time to allow for changes in our cost of labor, materials and/or other manufacturing costs after thirty (30) days have passed. If the prices we quoted are subject to any sales, use, excise or manufacturer's tax imposed by Federal, state, municipal or other government authorities upon the sale, use, and/or manufacture of the goods being offered, the amount of such taxes will be added to our quoted prices. Our quoted prices do not include any such taxes. If you accept this agreement, you agree to pay such taxes even if the statute imposing the tax places the tax on us. We reserve the right to require a partial advance cash payment with any order. Subject to credit approval, our payment terms are "net cash 30 days" from the date we send you an invoice unless we agree otherwise in writing. "Net cash 30 days" means that you promise you will pay your bill within thirty (30) days of the invoice date on your invoice. Such payment terms shall apply except as agreed upon in writing by us. Notwithstanding the foregoing, we reserve the right to require progress billing. If we require progress billing, you may be invoiced in separate installments for the total order price prior to your order being completed and shipped. Progress payments will be "Due Upon Receipt", meaning the that you must pay your bill for progress payment immediately upon receipt of the invoice. You acknowledge and agree that shipment of your order will be held



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until all progress payments have been completed. A service charge of one (1%) percent per month, or the maximum amount allowed by law, whichever is less, will be added to your bill if you do not make payment within ten (10) days of the invoice date. If you fail to make any progress payment when due we may at our option suspend work on your order and treat your failure to pay as a wrongful termination of our agreement, in which case you may be required to pay us damages as described in Section 3 above, and we will have no further obligation or liability to you. If you offer as payment a check or other note, such offer will not be considered a payment unless and until we are able to convert your check or note into cash.

5 RESERVATION OF TITLE; RIGHTS OF OWNERS OF LAND WHERE EQUIPMENT IS LOCATED; PROVISIONS FOR INSURANCE AND SECURITY INTEREST - We retain title to any equipment, machinery and materials sold to you until you have made all payments in cash in accordance with the terms of our agreement and any other obligations arising out of our agreement have been settled. You agree: (a) to do all acts and execute all papers necessary including without limitation security agreements, financing statements, conditional sales, chattel mortgages, notes, and/or any other papers which may be required to preserve title with us; (b) not to sell any such equipment, machinery or materials, until title has passed to you; and (c) not to contest the validity or scope of our title or rights in such equipment, machinery or materials prior to the title passing to you. If the equipment we are selling to you will be located on land you do not own wholly in your own name with clear title, this sales agreement must also be signed by any other party or parties who own the land in whole or in part. You agree that prior to delivery of the equipment you ordered, at our request, you will provide us with a Landlord's Waiver (if you lease the land) and a Mortgagee's Waiver (if the land is mortgaged), if either is applicable. We will provide a form of Landlord's Waiver or Mortgagee's Waiver if applicable. If you fail to make a payment under this agreement or fail to fulfill any of your obligations under this agreement, we may at any time repossess the equipment, machinery and or materials covered by this agreement. We may do so: (i) by entering onto the premises where the equipment, machinery or materials are located; (ii) in person or may direct a third party to do so on our behalf; and (iii) without obtaining a writ of replevin or undertaking any legal process whatsoever. You agree that we may not be held legally liable by you for repossessing the equipment, machinery or materials. You also agree that we will not be required to return any money that you have paid in part for the equipment, machinery or materials. You agree that the equipment, machinery, or material will not become a fixture by reason of its being attached to the real estate where it is located. It may be separated from the real estate, and we may reclaim and/or sell it in accordance with the terms of this agreement. Neither you, nor the owner of the real estate where the equipment, machinery, or materials are located, nor the mortgagee of the real estate, nor anyone with a prior encumbrance of the real estate will have any right, title, claim or interest in the equipment, machinery, or materials whatsoever by virtue of its attachment to the real estate. While title remains with us, no one may remove the equipment, machinery, or materials from the real estate without our prior permission. While title remains with us for the equipment, machinery, or materials, you agree to fully insure it at your own expense with us as the named beneficiary.

The insurance must cover all casualties and hazards including, but not necessarily limited to, fire, flood, tornado, collision, upset, riot, or other civil disturbance, vandalism, or act of terrorism. You agree that we have reserved title in the equipment, machinery, and materials for security purposes. By accepting this agreement, you irrevocably authorize us to execute and deliver in your name and on your behalf all documents necessary to identify, secure, and perfect our reservation of title and security interest, including a financing statement. You agree to inform us immediately in writing of any seizure or other act of intervention by third parties relating to the equipment, machinery, or materials that may affect our security interest in them.

6 DELIVERY OF THE ORDER - All equipment, machinery or materials sold free carrier (FCA) are considered delivered to you when they are loaded on to a carrier's truck at our designated facility. Once delivery occurs, you are responsible for any claim for loss or damage, that is, the risk of loss or damage falls to you and not us. You will have to make and pursue any claim yourself against the freight carrier. If a shipment is short or in error, we will consider correcting the problem if you contact us in writing within ten (10) days after you received the shipment. You agree to waive any claims for liquidated and/or consequential damages for delays in delivery resulting from damage or loss in transit, for any reason, including any act, error, omission, or negligence on our part. If delivery occurs but we are required to further handle or transport the equipment, machinery or materials, you agree that we are acting only as your agent. If you choose to delay the shipment for any reason, you assume all risks once we notify you that the equipment, machinery, or materials are ready for shipment. You will still be responsible for making all payments in accordance with the terms of this agreement regardless of when your order is shipped. If we incur any additional expenses because of a delay in shipment or changes to your order made when completing your order or arising from our further handling of the equipment, machinery or materials after delivery as required by you, you will be responsible for compensating us for such expenses.

7 DELAYS BEYOND OUR CONTROL; ESTIMATED SHIPPING DATES - You agree that we may not be held responsible for any loss or damages: (a) resulting from a delay or failure to make delivery due to damages to the equipment, machinery, or materials occurring in transit, whether or not it was within our control; (b) resulting in a delay or failure to make delivery because of priorities or other regulations or orders of any governmental authority, agency, or instrumentality; or (c) resulting in a delay or failure to make delivery due to a failure to obtain labor, a labor dispute, riot, civil disturbance or insurrection, fire, act of God, act of a public enemy,



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pandemic, epidemic, raw material shortages or any other cause outside our control (each, a "Force Majeure Event"). The same will be true whether any of the Force Majeure Events affected us directly or affected one or more of our suppliers or freight carriers. You agree that we will not be held responsible if we cannot complete your order if a Force Majeure Event occurs that makes it impossible or commercially unreasonable for us to complete your order. Unless we agree otherwise, any shipment dates that we may provide to you before we actually ship your order are only best estimates based upon current shipping schedules and promises from our suppliers. You agree that any such shipment dates will not be considered fixed or guaranteed shipping dates.

Our performance under this agreement is contingent on you timely fulfilling all of your obligations under this agreement, including your payment obligations. These obligations include supplying all documents and approvals needed for us to perform, including but not limited to technical information and data, drawing and document approvals, and necessary commercial documentation. We may request a change order for an equitable adjustment in prices and times for performance, as well as for any additional costs or any delay resulting from the failure of you or your contractors, successors or assigns to meet these obligations.

8 INTELLECTUAL PROPERTY WARRANTY AND THIRD PARTY CLAIMS

We warrant that any products we sell you will be delivered free of any rightful claim of any third-party for infringement of any United States patent. If you notify us promptly in writing and give us the authority to act on your behalf, we will defend you if anyone brings a suit related to infringement of a United States patent from your use of the products we sell to you in violation of this warranty. We will only provide such a defense if you provide adequate information and assistance to us and agree not to take a position adverse to us in such a suit. At our option, we may settle any such suit at our expense. We will pay all damages and costs awarded against you in such a suit so long as you have promptly notified us in writing of such suit and have provided us with the assistance and information requested above and have not taken an adverse position to us in such suit. If any product or part of a product in such a suit is held to infringe a third party's United States patent in violation of our warranty to you, and you are no longer able to use the product as intended, we will, at our own expense and option, provide one of the following remedies to you:

- (a) obtain the right for you to continue using the product or part, or
- (b) replace the product or part with a non-infringing product or part, or
- (c) modify the product or part so that it no longer infringes the third-party's United States patent, or
- (d) take back the product or part and refund your original purchase price (less an allowance for reasonable depreciation for the period you used the product and any transportation costs paid separately by you).

This Section states our entire liability for intellectual property infringement by any of the products or parts of products we sell to you. The warranty described in this Section 8 does not apply to any product or part that was manufactured to your specifications or design. The warranty described in this Section also does not apply if you use any product we sold you in conjunction with any other product in a combination not intended by us as a part of this transaction if the combined uses forms the basis for the infringement of a third-party's patent. You agree that we have no liability for, and you will hold us harmless against, any infringement claims arising in connection with any infringing part or product (a) that was manufactured to your specifications or design; or (b) used by you in combination with other products in an infringing way.

9 LIMITED WARRANTY

We warrant that one (1) year from the date of startup or eighteen (18) months from the date of shipment (whichever is earlier) that the equipment, machinery, or materials we sold to you will be free from material defects in material and workmanship, and that they will perform in accordance with the specifications as outlined in your order in all material respects to the extent we agreed to them in our written acknowledgment of your order (the "Limited Warranty"). However, we do not warrant component parts, which are subject to normal wear and tear or are designed to be replaced or renewed as part of the routine maintenance of the machinery. Our obligations under this Limited Warranty are limited, however, to replacing but not installing, free carrier (FCA) at our designated facility, the replacement part or parts in which substantial defects in material or workmanship shall appear under normal use and service. If you wish to make a claim under this Limited Warranty, you must notify us in writing of the existence of a defect within ten (10) days after the defect appears. At our choice, any parts replaced under this Limited Warranty become our property, and you promise that you will follow our instructions regarding the disposition of any parts that are replaced, whether that includes returning such parts to us or discarding such parts. This Limited Warranty does not cover any damage, defects or costs caused by: (a) modification, alteration, repair or service of the goods by anyone other than us or our authorized representative; (b) physical abuse to, overload of, or misuse of, the goods, or operation of the goods in a manner contrary to the instructions accompanying the goods; or (c) any use of the goods other than that for which it was intended, misuse, neglect, accident, improper or inadequate maintenance, corrosive environments, or excessive thermal shock.



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With respect to equipment, parts, electrical components, or accessories to our products that are furnished, but not manufactured by us, our warranty obligation shall in all respects conform and be limited to the warranty extended to us by the third-party supplier or, if none, to the limit of the warranties expressed herein. Any warranty claims on these buy-out items will still be handled through the McLanahan warranty group.

If the order is specified to your design, we warrant only workmanship and materials, but we accept no responsibility for equipment design or performance.

If the equipment, machinery or materials you purchased incorporate or include any software that is our proprietary software (as opposed to software created and owned by a third party), and we have not entered into a separate license agreement with respect to your use of such software, then the warranty above will not apply, and instead we warrant, for a period of ninety (90) days from the date of delivery of the equipment, machinery or materials, that such software will substantially conform to its published specifications and that the media on which the software resides (if the software is not embedded in the equipment, machinery or materials) will be free from material defects in materials and workmanship. In addition, you promise that you will only use any such proprietary software in conjunction with the equipment, machinery or materials provided by us, and then only for your internal business purposes. We make no warranty with respect to any software that was created by a third party. In the event we enter into a separate license agreement, then the terms of this paragraph will not apply, and that separate license agreement will govern your use of the software and any warranties relating to such software will be as stated in such agreement.

If you are unable to make the equipment perform as it should, you must immediately notify us by registered letter. Your letter should include a description of the difficulties you encountered with the equipment.

You promise to give us a reasonable amount of time to assist you in making the equipment work satisfactorily. You also promise to fully cooperate and provide all reasonably requested assistance in order to make the equipment work satisfactorily. You agree that we will not be liable for, or held responsible for, any alterations or repairs made to the machinery unless you first obtained our written consent and approval in advance. If the equipment cannot be made to fulfill the warranty, we will reload the equipment on the carrier and pay the freight for returning the shipment. You promise not to hold us liable for any damages, expenses of unloading and reloading, or freight from our location to you.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, WE MAKE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE OR WARRANTIES BY AFFIRMATION, PROMISE, DESCRIPTION, SAMPLE, OR ANY OTHER TYPE OF WARRANTY EXCEPT AS DESCRIBED IN THIS AGREEMENT. THERE ARE NO WARRANTIES EXTENDING BEYOND THE DESCRIPTION SET FORTH IN THIS AGREEMENT.

THIS LIMITED WARRANTY IS GIVEN ONLY TO YOU, AND DOES NOT EXTEND TO ANY SUBSEQUENT BUYER OR TRANSFeree OF OUR PRODUCTS. THE ABOVE WARRANTY SHALL CONSTITUTE YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE PRODUCTS FURNISHED HEREUNDER. YOU AGREE THAT UNDER NO CIRCUMSTANCES WILL WE BE LIABLE FOR ANY CONTINGENT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOSS OF TIME, LOSS OF GOODWILL, LOSS OF PROFITS, ANY DAMAGE TO GOODS BEING PRODUCED, OR ANY OTHER COSTS OR EXPENSES OF ANY KIND OR NATURE RESULTING FROM ANY OF THE PRODUCTS OR EQUIPMENT SOLD TO YOU BY US. IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DAMAGES IN EXCESS OF THE AMOUNT ACTUALLY PAID BY YOU FOR THE PRODUCT GIVING RISE TO THE CLAIM. ANY ACTION AGAINST US MUST BE BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE CAUSE OF ACTION ARISES.

10 ADDITIONAL WARRANTIES

You represent and warrant to us that: (a) you are duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering; (b) you have the full right, power and authority to enter into this agreement and to perform your obligations hereunder; (c) the execution of this agreement by your representative has been duly authorized by all necessary corporate action; and (d) when executed and delivered by you, this agreement will constitute a legal, valid and binding obligation, enforceable against you in accordance with its terms.

11 DESIGN CHANGES

We reserve the right to make changes in the design of any of our products. If we elect to make such changes, we are not obligated to notify you or make any changes to products we previously sold to you.



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12 COMPLIANCE WITH THE LAW

You shall at all times comply with all laws applicable to this agreement, your performance of your obligations hereunder and your use or sale of the goods and services, including the laws of the United States, applicable international law, and the laws of the destination country in connection with the purchase and use of any products we sell to you. You also agree to cooperate with us as well as with any United States government agency or instrumentality or other international or foreign governing body to assist us in complying with all applicable export control regulations. Without limiting the generality of the foregoing, you shall (a) at your own expense, maintain all approvals, certifications, credentials, licenses, and permits necessary to conduct your business relating to the purchase or use of the goods and services and (b) not engage in any activity or transaction involving the goods or services, by way of shipment, use or otherwise, that violates any applicable law. Our obligations to fulfill your order under this agreement are subject to the condition that fulfillment will not be in violation of any United States laws or other international laws or the laws of the destination country.

If for any reason the order cannot be fulfilled due to a failure by you to obtain proper authorization to export your order, we reserve the right to cancel the order. If the order is cancelled for this reason, you will be responsible for damages equal to the damages described above that would have been due under this agreement just as if you had elected to voluntarily terminate the order without first reaching a mutual agreement with us.

13 OFAC REPRESENTATIONS AND WARRANTIES

You are in compliance with the International Emergency Economic Powers Act (50 U.S.C. § 1701) and all other laws administered by Office of Foreign Assets Control of the US Treasury Department or any other governmental authority imposing economic sanctions and trade embargoes ("Economic Sanctions laws") against countries ("Embargoed Countries") and individuals or entities designated in such Economic Sanctions laws (collectively, "Embargoed Targets"). You are not an Embargoed Target or otherwise subject to any Economic Sanctions law. Further, you shall comply with all Economic Sanctions laws. Without limiting the generality of the foregoing, you shall not: (a) directly or indirectly export, re-export, transship, or otherwise deliver the goods or services or any portion of the goods or services to an Embargoed Target; or (b) broker, finance, or otherwise facilitate any transaction in violation of any Economic Sanctions law. Likewise, you will not take any action that would cause us to be in violation of any Economic Sanctions laws, and you agree that we will not be required to take any action, such as providing assistance with training or service of a product that we sell to you under this agreement, or any other action, that would result in us committing a violation of any Economic Sanctions law.

14 FOREIGN CORRUPT PRACTICES ACT

You and your affiliates, employees, officers, directors, partners, shareholders, agents, attorneys, third-party advisors, successors, and permitted assigns ("Representatives") are in compliance with the Foreign Corrupt Practices Act of 1977, as amended ("FCPA"). Neither you nor any of your Representatives has: (a) used any corporate funds for any unlawful contribution, gift, entertainment, or other unlawful expense relating to political activity or to influence official action; (b) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (c) made any bribe, rebate, payoff, influence payment, kickback, or other unlawful payment; or (d) failed to disclose fully any contribution or payment made by you (or made by any Person acting on your behalf of which you are aware) that violates the FCPA. Without limiting the generality of the foregoing, you shall, and shall cause your Representatives to, comply with the FCPA, including maintaining and complying with all policies and procedures to ensure compliance with the FCPA.

15 PRIVACY

By accepting this agreement, you acknowledge that you understand and agree to the terms of the Equipment Data Privacy Notice, found in the McLanahan Corporation Privacy Policy (https://s3.amazonaws.com/mclanahan.com/files/McLanahan-Privacy-Policy-09_19.pdf?mtime=20180924160139).

YOU ACKNOWLEDGE AND AGREE THAT WE MAY USE REMOTE MONITORING DEVICES TO COLLECT INFORMATION REGARDING THE EQUIPMENT THAT YOU PURCHASE. THE INFORMATION WE COLLECT IS NOT PERSONAL DATA. WE DO NOT ACTIVELY MONITOR THE DATA WE COLLECT FROM THE EQUIPMENT IN REAL TIME. THEREFORE, NO ONE SHOULD RELY, OR IN ANY WAY DEPEND, ON US TO ACT IN REAL TIME BASED UPON THE INFORMATION WE OBTAIN. THE COLLECTION OF THIS DATA IS NOT A SUBSTITUTE FOR THE SAFE OPERATION AND MAINTENANCE OF THE EQUIPMENT AT ALL TIMES, AND IS NOT TO BE RELIED UPON FOR THE DISPATCH OF EMERGENCY ASSISTANCE. WE MAY USE THE INFORMATION COLLECTED TO INVESTIGATE AND DEFEND OURSELVES FROM CLAIMS OR ALLEGATIONS BROUGHT BY YOU OR THIRD PARTIES.

16 GOVERNING LAW; DISPUTE RESOLUTION; SUBMISSION TO JURISDICTION

We agree that the law of the Commonwealth of Pennsylvania will govern this agreement. You promise that before you seek to bring a legal claim against us you will first attempt to negotiate in good faith a resolution to any dispute arising out of this agreement. We will have thirty (30) days to conduct such negotiations prior to you filing suit.



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For domestic sales:

If we fail to achieve resolution of your dispute after negotiating in good faith, and if you decide to bring a law suit against us, you agree that such a suit may only be brought in Blair County, Pennsylvania court. If we are required for any reason to bring legal action against you, you agree to submit to the exclusive jurisdiction of the courts of the Commonwealth of Pennsylvania.

For international sales:

All disputes arising out of or in connection with this agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "Rules") by one or more arbitrators appointed in accordance with the said Rules, with any such arbitration to be held in Blair County, Pennsylvania. You hereby irrevocably waives any objection that you may have to the venue of any such proceeding. You represent and warrant that (a) your agreement to submit to arbitration is valid and legally binding on you under the laws of your country of incorporation, registration and/or residency (the "Country"), and (b) you are subject to suit in the courts of the Country and that, under such laws, the courts of the Country would recognize as a valid judgment any monetary awards obtained pursuant to arbitration or any final and conclusive civil judgment for monetary or equitable claims obtained in any federal or state court in Blair County, Pennsylvania against you related to this agreement. Pursuant to Article 6 of the United Nations Convention on Contracts for the International Sale of Goods ("U.N. Convention"), the parties agree that the U.N. Convention shall not apply to this agreement.

17 MISCELLANEOUS

If any provision of this agreement is deemed invalid, illegal, or unenforceable, the other provisions of this agreement will remain in force. If you accept these terms and conditions, you agree that together with any quotation attached to these terms and conditions, these documents will constitute the entire agreement between us. Any prior oral or written agreements, representations, or understandings, express or implied, between us are excluded and are not a part of our agreement. Sections 2, 4, 5, 7, 8, 9, 10, and 12 - 17 of this agreement, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, shall survive the expiration or earlier termination of this agreement. You agree that we may assign or transfer this agreement to a third party without your permission and without notifying you in advance. You may only assign or transfer this agreement if you first obtain our prior written consent. Any assignment in violation of this Section shall be null and void. This agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. This agreement is 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 this agreement. No modification, amendment, or waiver of any provision of this agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. Any failure of a party to exercise or enforce any of its rights under this agreement will not act as a waiver of such rights. This agreement may be executed in counterparts, each of which is an original but all of which, together, shall constitute but one and the same instrument.