

## TERMS AND CONDITIONS OF SALE:

(Except as otherwise expressly agreed by Arrow Material Handling Products ["Seller"] in writing, the following terms and conditions will apply to all orders received and all sales made by Seller. The person submitting an order to Seller or buying products or services, or both, from Seller is referred to herein as "Buyer." The words "herein," "hereof," and "hereunder" refer to the entire document of which these terms and conditions are a part.)

1. **GENERAL:** The terms and conditions set forth herein, in any Purchase Order, Manufacturer Agreement, Manufacturer-Wholesaler Agreement, Manufacturer-Dealer Agreement, International Dealer Agreement, Key Account Agreement or National Account Agreement between Seller and Buyer, or in any Terms of Sale to National Accounts delivered by Seller to Buyer (collectively the "Terms and Conditions"), together constitute the sole and entire agreement between Seller and Buyer with respect to the subject matter hereof. Any term or condition in any order, confirmation or other document furnished by Buyer which is in any way inconsistent with or in addition to the Terms and Conditions is hereby expressly rejected, and Seller's acceptance of any offer or order of Buyer will be deemed to have been expressly made in reliance on Buyer's assent to all of the Terms and Conditions. All references to the Terms and Conditions include all terms and conditions set forth in this document, including paragraphs 1 through 27, and all terms and conditions contained in any document described in the first sentence of this paragraph 1 (an "Other Contract Document"). In the event of inconsistency between the terms and conditions set forth herein and the terms and conditions contained in any Other Contract Document, the terms and conditions contained in the Other Contract Document will control. If Buyer objects to any of the terms or conditions contained herein, such objection must be made in writing and received by Seller at its corporate headquarters in Lenexa, KS within ten (10) days after this document is transmitted to Buyer. Failure to so object shall be conclusively deemed to be acceptance of the terms and conditions contained herein. Seller's failure to object to any term or condition in any oral or written communication from Buyer, whether delivered before or after the date hereof, shall not constitute an acceptance thereof or a waiver of any provision of the Terms and Conditions.

2. **DISCOUNTS AND TAXES:** The prices set forth herein may be subject to trade or other discounts and, except as otherwise expressly stated herein, do not include federal, state or local taxes applicable to goods or services involved in this transaction. All such taxes shall be paid by Buyer unless Buyer provides Seller with evidence satisfactory to Seller of exemption from such taxes. When Seller is required by law or regulation to collect such taxes, Seller will add such taxes to the sales price of the goods or services.

3. **PRICES:** Unless otherwise agreed in a writing signed by Buyer and Seller, the sale price(s) for products will be the list, posted or quoted price(s) of Seller in effect at the time of delivery or, if Seller has issued a written acceptance, confirmation or acknowledgment (the "Acceptance") of Buyer's purchase order, at the date of the Acceptance, less, in either case, any applicable discount. The cost of packing and crating, whether in accordance with Seller's specifications or standards or any request of Buyer or otherwise, is an additional charge and will be added to the sale price(s).

### 4. DELIVERY, TITLE PASSAGE AND INSURANCE:

(a) **Delivery.** Delivery or shipping dates, if any, set forth herein are approximate only and merely represent Seller's best estimate of the time required to make delivery or shipment. Time is not of the essence with respect to any transaction subject to the Terms and Conditions, except with respect to Buyer's obligation to pay the price(s) and make all related payments. Seller will not be liable for any loss or expense (incidental, consequential or otherwise) incurred by Buyer as a result of any delay in delivery for any reason other than arbitrary refusal by Seller to perform. Seller reserves the right to make partial deliveries.

(b) **Title Passage for Domestic Sales.** Except as otherwise expressly stated in the Terms and Conditions, if the ultimate destination of products sold hereunder is in the United States, Canada or Mexico, delivery will be complete upon delivery to a carrier at Seller's plant. The carrier may be selected by Buyer at its option, and otherwise will be selected by Seller. Shipment will be freight collect unless Seller elects to prepay freight and add it to the invoice, and will be addressed to Buyer or Buyer's designee at the address Buyer sets forth or requests. Large products will be shipped via truck. Service parts will be packed in Seller's standard shipping packages and normally shipped via truck or small package delivery service such as UPS, FED-EX Ground, etc. In all cases, title and risk of loss or damage will pass to Buyer upon Seller's delivery of the products to the carrier for shipment to Buyer, and no loss or damage will relieve Buyer of any obligation hereunder, including, without limitation, the obligation to pay the full price of the lost or damaged products. If shipment of any goods is delayed at Buyer's request, Seller may invoice Buyer for such goods, and risk of loss of such goods will pass to Buyer, on the date that Seller is prepared

to make shipment to Buyer. Buyer shall reimburse Seller for any and all costs of storage incurred by Seller after the date that Seller is prepared to make shipment.

(c) Title Passage for Export Sales. Except as otherwise expressly stated in the Terms and Conditions or by written agreement signed by Seller, if the ultimate destination of products sold hereunder is outside the United States, Canada and Mexico, delivery will be ex works (Seller's plant), as defined in Incoterms 2010. Shipment will be via a carrier selected by Buyer at its option, otherwise via a carrier selected by Seller, freight collect or (at Seller's option) prepaid and added to invoice, to Buyer at its preferred or directed address, and will be packed on a pallet or in Seller's standard shipping packages. In all such cases, title and risk of loss or damage will pass to Buyer on delivery of the products to the carrier. No loss or damage will relieve Buyer of any obligation hereunder, including payment for lost or damaged products. All risks of transportation are for the account of Buyer. The products sold are subject to export control laws of the United States, and Buyer agrees not to re-sell or divert the products contrary to such laws. Buyer must obtain necessary export documentation from the United States government before the products leave the United States.

(d) Insurance. Buyer will pay, or reimburse Seller for, all insurance on the products. Any insurance proceeds collected by Buyer for Seller's account will be promptly remitted to Seller in U.S. Dollars. Any insurance policies purchased, whether by Buyer or Seller, will be for the benefit of Seller, whether or not Seller is named as an insured in such policies, until title and risk of loss or damage to the products pass to Buyer. Where possible, all insurance policies will provide that they are for the benefit of Seller and Buyer "as their interests may appear."

5. BUYER'S CONDITION: Any contract evidenced by the Terms and Conditions and all shipments made hereunder shall at all times be subject to the approval by Seller of Buyer's financial condition. If the financial condition of Buyer at any time becomes unsatisfactory to Seller or if Buyer fails to make any payment when due, in addition to any other rights Seller may have, and notwithstanding any previous agreement by Seller to extend open account terms to Buyer, Seller may defer or decline to make any shipment or shipments hereunder or may condition any such shipment upon receipt of satisfactory security or cash payments in advance.

6. PAYMENT TERMS: Except as otherwise expressly stated in the Terms and Conditions, Seller shall invoice Buyer at the time of shipment of each installment on payment terms of cash on delivery, except where open account credit is established and maintained to Seller's satisfaction, in which case payment terms shall be net ten (10) days from date of shipment. Buyer shall make all payments as provided herein without regard to whether Buyer has made or may make any inspection or use of any goods delivered hereunder. Any invoiced amount which is not paid when due shall bear interest at the rate of one and one-half percent (1 -1/2%) per month or the highest rate then permitted by law, whichever is less. On orders for shipment to countries other than the U.S.A., payment on all sales over Five Thousand U.S. Dollars (U.S. \$5,000) will be made through either a) cash in advance via wire transfer, or b) the medium of a Letter of Credit to be established by the Buyer at its expense, including any bank confirmation charges. All Letters of Credit will be in favor of and acceptable to Seller, will be maintained in sufficient amounts and for the period necessary to meet all payment obligations, will be irrevocable, will be issued or confirmed by a bank in Kansas or Missouri satisfactory to Seller within fifteen (15) days after acceptance of any order, will permit partial deliveries and will provide for payment upon presentation of Seller's invoices and the bill of lading or other appropriate shipment documents.

7. SECURITY INTEREST: Seller retains a security interest in all goods delivered hereunder and all proceeds and products thereof until all amounts due or to become due hereunder have been paid. Any repossession and removal of goods shall be without prejudice to any of Seller's other remedies at law or in equity. Buyer agrees, without further consideration, at any time to do or cause to be done, executed and delivered, all such acts and instruments as Seller may reasonably request in order to protect Seller's security interest. Buyer expressly authorizes Seller to file such financing statements and amendments thereto as Seller may deem necessary or appropriate to perfect its security interest.

8. CONTINGENCIES: Seller shall not be liable for delay in performance or nonperformance of any of its obligations hereunder, in whole or in part, if such performance is rendered impracticable by the occurrence of any contingency or condition beyond the control of Seller that directly or indirectly affects Seller's ability to perform, including, without limitation, war, sabotage, embargo, riot or other civil commotion, failure or delay in transportation, act of any government or any court or administrative agency thereof (whether or not such action proves to be invalid), labor dispute (whether or not involving Seller's employees), accident, fire, explosion, flood or other casualty, shortage of labor, fuel, energy, raw materials or machinery, or technical failure, and further including, without

limitation, any of the foregoing that affects any of Seller's suppliers. If any such contingency or condition occurs, Seller may allocate production and deliveries in any reasonable manner and may include in such allocation any regular customers, whether or not then under contract, and Seller's own requirements. If, as a result of any such contingency, Seller's performance is delayed by more than six (6) months, the prices set forth herein shall be subject to appropriate adjustment by Seller. If, subsequent to the date as of which any sale price is established as provided in paragraph 3 hereof, and prior to delivery, there is an increase of twenty percent (20%) or more in Seller's cost for steel and/or overall metal materials used in production, Government imposed duties, tariffs and/or other fees, cost of freight to secure materials, cost of labor used to make the product, or the rate of inflation, (a) Seller may impose a surcharge or make an adjustment to the price to reflect and pass on to Buyer, in whole or in part, the additional cost, and (b) Buyer may, within fifteen (15) days after its receipt of notice of the surcharge or adjustment, cancel its order as to the affected product(s).

9. **SUBSTITUTIONS, MODIFICATIONS, CHANGES:** Seller may substitute or modify goods or services, provided that the substituted or modified goods or services comply with applicable specifications. Invoices shall be based on the type and quantity actually shipped. Buyer may change product mix or "ship to" locations at no charge (other than any resultant change in price or freight and related charges) any time more than 21 calendar days before commencement of shipment; changes between 14 and 21 calendar days will create a "change charge" of \$50; and changes between seven and 14 calendar days will create a "change charge" of \$100. No changes will be accepted less than seven calendar days of scheduled ship date.

10. **WARRANTY; SUITABILITY:**

(a) Unless a separate written warranty applies to a product that is the subject of a transaction governed by these terms and conditions, the following provisions of this paragraph 10(a) shall apply. Seller warrants products delivered hereunder against faulty workmanship and use of defective materials from the date of shipment in normal use and service when properly maintained for the period as indicated: Forklift Forks, are warranted for thirty-six (36) months. Attachments such as Sideshifters, Fork Positioners, Auger Gearboxes, Motors, Bits, Frames and Cradles, Booms, Buckets, Grapples, Shears, Pullers and Saws are warranted for a period of twelve (12) months. The Warranty for all products listed above and delivered hereunder to Rental users is for a period of six (6) months from the date of shipment to the original purchaser. Miscellaneous, spare, replacement, after-warranty parts and components such as adaptors, cylinders, extensions, hydraulic hoses, switches, valves and wiring, three (3) months. This warranty does not include and hereby excludes maintenance parts, wear and tear parts and consumables, including but not limited to blades, belts, cutting edges, filters, hydraulic fluid, oil, pilots, teeth and similar items. This warranty does not apply when non-original spare parts have been used or when modifications or repairs have been carried out without our advance written permission.

Refer to the Product Manual for proper maintenance procedures. Auger Teeth and Pilots are manufactured with a patented design to interface with Seller's Auger attachments, extensions and adaptors. The use of attachments other than Seller's Auger Teeth, Pilots, attachments, extensions and/or adaptors will void all warranty on Auger Drives and Bits. The use of Seller's adaptors on unapproved attachments is not sanctioned. A "home-made" or non-standard attachment outside the specifications for the machine will void this warranty.. Disassembly, modification or welding of products without Seller's written authorization voids the warranty. Improper installation, ripping or cutting due to unauthorized modifications of Seller's installation procedures is not warranted. An Authorized Dealer or Seller representative must install hydraulic kits and components for failures to be given warranty consideration. No warranties are expressed or implied as to the fitness of the equipment on which the attachment or accessory is installed. The purchaser is responsible for promptly informing Customer Service of any suspected operational deficiencies or failures. Seller is the sole party responsible for analysis of reported deficiencies or failures. Repair or replacement will be at the sole discretion of Seller.

Faulty workmanship and/or use of defective materials shall be hereinafter referred to as a "deficiency." The foregoing warranty shall not be enlarged, or affected by, and (except as expressly provided below in this paragraph 10) no obligation or liability shall arise or grow out of, Seller's rendering of product or systems design, drawings, technical advice, services or instructions in connection with the goods furnished hereunder. Such warranty is the only warranty made by Seller and it can be amended only by a written instrument signed by a duly authorized officer of Seller. If the goods furnished by Seller hereunder are determined to contain a deficiency, Buyer's exclusive remedy shall be to have Seller repair such goods or supply replacement goods or credit Buyer's account for such goods and accept their return, whichever Seller may elect in its sole discretion. Without limiting the generality of paragraph 11, below, Seller shall not, under any circumstances, have any liability or obligation for or

with respect to expenses, liabilities or losses associated with product downtime or inability to operate, the installation or removal of any goods or the installation of replacement goods or any inspection, testing or redesign occasioned by any deficiency or by the repair or replacement of goods. Seller's obligations are subject to the further condition that Seller shall have no liability whatsoever for any deficiency unless (i) Seller is notified, in writing, promptly (and in no event later than ten (10) business days) after discovery by Buyer of the alleged deficiency, which notice shall include a detailed explanation of the alleged deficiency, (ii) the goods containing the alleged deficiency are promptly returned to Seller at Seller's plant, and (iii) Seller's examination of such goods discloses to Seller's satisfaction that such alleged deficiency actually exists and occurred in the course of proper and normal use and was not caused by accident, misuse, neglect, alteration or improper use, installation, repair or testing, or use of any non-original spare parts. If any goods so prove to contain a deficiency and Seller elects to repair or replace them, Seller shall have a reasonable time to make such repairs or replacement. If the contract calls for design, drawings, technical advice, services or instructions (collectively "Design Services") by Seller in connection with the goods, Seller further warrants for the above stated warranty period solely that the Design Services will be undertaken in accordance with Seller's reasonable technical judgment based on Seller's understanding of the pertinent technical data as of the date of performance of the Design Services.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, AND OF ANY OTHER OBLIGATION ON THE PART OF SELLER.

(b) It shall be the responsibility of Buyer to determine, on the basis of the most current written technical data, the suitability of the goods and of any product design or drawings for the intended use and their compliance with applicable laws, regulations, codes and standards, and the Buyer assumes all risks pertaining thereto.

11. LIMITATION OF LIABILITY AND INDEMNITY: Notwithstanding any other provision of the Terms and Conditions (except the provisions of paragraph 13, below, which govern, to the exclusion of the provisions of this paragraph 11, any matters within the coverage of paragraph 13) or the contents of any other document or communication, (a) Seller's liability and obligations with respect to any claim(s) resulting or arising from any transaction subject to the Terms and Conditions, whether in contract, strict liability, tort or otherwise, including, without limitation, warranty claims, shall in no event exceed in the aggregate the total purchase price received by Seller for the goods delivered in the transaction (or, in the case of obligations arising from or relating to services rendered as part of the transaction, the amount received by Seller for such services), and (b) Seller shall in no event be liable to Buyer or any other person or entity, whether in contract, strict liability, tort or otherwise, for loss of life or damage to or loss of use of facilities or other property, loss of revenue, loss of use of revenue, loss of anticipated profits, cost of replacement fuel or other indirect, special, incidental, consequential, exemplary or punitive damages of any kind whatsoever, or claims of any customers of Buyer or other claimants, resulting or arising from or relating to any transaction subject to the Terms and Conditions or Seller's performance of its obligations under any contract evidenced by the Terms and Conditions. By accepting delivery of the product(s) ordered, Buyer agrees that it shall indemnify Seller and hold it harmless from and against any and all claims, loss, damage, liability and expense, including without limitation, reasonable attorneys' fees, directly or indirectly arising from or relating to the hazards inherent in the Buyer's facilities, activities, or unintended use or misuse of the product(s). The preceding sentence applies without regard to the nature of the underlying claim or loss, whether it be for personal injury, property damage, commercial loss or any other kind of claim or loss whatsoever.

12. ACCEPTANCE: All goods and services delivered or rendered hereunder shall be conclusively deemed accepted unless, within thirty (30) days after the date of delivery of goods or rendering of services, Seller receives written notice of rejection. Acceptance as aforesaid shall constitute acknowledgment of full performance by Seller of all of its obligations hereunder.

13. PATENTS: Seller agrees to settle or defend any suit or proceeding brought against Buyer insofar as such suit or proceeding is based on a claim that any goods supplied by Seller to Buyer hereunder constitute direct infringement of any issued United States patent. Seller shall pay all damages and costs finally awarded therein against Buyer, provided Seller is informed by Buyer in writing within ten (10) days after receipt by Buyer and furnished a copy of each communication, notice or other action relating to the alleged infringement and is given all authority (including the right to exclusive control of the defense of any suit or proceeding), information and assistance necessary to settle or defend such suit or proceeding. In the event such goods or any part thereof are,

in such suit, held to constitute infringement and the use of such goods or part thereof is enjoined, Seller shall, by its own election and at its own expense, either procure for Buyer the right to continue using such goods, or part thereof, or modify them so that they become non infringing or remove such goods, or part thereof, and grant Buyer a credit thereon and accept their return. Seller shall not be obligated to settle or defend any suit or proceeding, or be liable for any costs or damages, if the alleged infringement arises out of compliance with Buyer's specifications or any addition to or modification of the goods after delivery thereof or from use of the goods or any part thereof in conjunction with other goods or in the practice of a process. Seller's obligations under this paragraph 13 shall not apply to any alleged infringement occurring after Buyer has received notice of such alleged infringement unless Seller thereafter gives Buyer express written consent for such continuing alleged infringement. Seller shall not be bound in any manner by any settlement made without its prior express written consent, nor shall Seller be liable for any indirect, special, incidental, consequential, exemplary or punitive damages arising out of patent infringement. Seller's aggregate liability under this paragraph 13 shall not exceed the purchase price paid by Buyer for the allegedly infringing goods. If infringement is alleged prior to completion of delivery of the goods, Seller may decline to make further shipments without being in breach of the Terms and Conditions. THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF SELLER FOR PATENT INFRINGEMENT AND IS IN LIEU OF ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, IN REGARD THERETO. Buyer agrees, at its expense, to settle or defend and to pay costs and damages finally awarded in any suit or proceeding against Seller based on an allegation that any goods furnished hereunder according to designs or specifications furnished by Buyer infringe any United States patent, provided Buyer is promptly notified in writing of such suit or proceeding and is given all authority (including the right to exclusive control of the defense of any suit or proceeding), information and assistance necessary to defend or settle any such suit or proceeding.

**14. PROPERTY FURNISHED BY BUYER:** If Buyer furnishes any samples, tools, dies, jigs or other property or facilities to Seller in connection with the performance of this agreement, Buyer shall bear all risk of loss or damage with respect to such property or facilities and shall indemnify and hold Seller harmless from and against all loss, cost, expense or liability resulting from or arising in connection with its use of any such property or facilities. Seller shall not be responsible for any delay in performance or nonperformance hereunder or the failure of any goods to conform to applicable specifications resulting, in whole or in part, from Seller's use of property or facilities furnished by Buyer.

**15. CONFIDENTIAL INFORMATION:** As used in this paragraph 15, the term "Confidential Information" includes any information of a confidential or proprietary nature obtained from Seller and any information obtained from Seller which is not readily available to Seller's competitors and which, if known by a competitor of Seller, might lessen any competitive advantage of Seller or give such competitor a competitive advantage. Seller retains ownership and all rights of title and copyrights of all confidential Information and all documentation which contains Confidential Information including drawings, samples, illustrations, plans, calculations and computations as well as other physical and/or electronic records and/or information. Buyer shall not disclose, duplicate or reproduce any Confidential Information nor shall Buyer use any Confidential Information other than in the course of performing its obligations hereunder. Buyer shall take all reasonable steps to prevent the disclosure, duplication or reproduction of any Confidential Information. Notwithstanding the foregoing, Buyer shall not be required to refrain from disclosing or using any Confidential Information acquired by Buyer from a source other than Seller or any person or party affiliated with Seller or having an obligation to Seller to protect the confidentiality of such Confidential Information.

**16. CANCELLATION; RETURNS:** No order subject to the Terms and Conditions may be canceled by Buyer, nor are any goods delivered and accepted hereunder subject to return, except upon (a) written approval of Seller, and (b) the payment to Seller of a fair and equitable cancellation or return charge *i)* for units, based upon actual costs (including overhead and other indirect costs) incurred to the date of approval of cancellation or return, together with a reasonable allowance for profit, which shall be not less than fifteen percent (15%) of such costs, and */or ii)* for service parts, based upon a 20% return charge for unwanted new, undamaged, and non-obsolete materials, agreed-to at Seller's sole discretion, and requested through the Return Authorization (RA) process. Seller reserves the right, by written notice of default, to cancel this order, without liability to Buyer or any other person claiming through or under Buyer, in the event of the happening of any of the following: insolvency of Buyer, the filing of a petition by or against Buyer under Title 11 of the United States Code, the appointment of a receiver or trustee for Buyer or any material part of its assets, the execution by Buyer of an assignment for the benefit of creditors, the

discontinuance of business by Buyer, or the sale by Buyer of a material part of its assets other than in the ordinary and usual course of business.

17. **NO LICENSE:** Neither the Terms and Conditions nor any purchase of goods subject thereto shall be construed to confer upon Buyer or its customers any license under any patent or other confidential or proprietary rights of Seller, except the right to use such goods for the purposes for which they are sold.

18. **SERVICE CALLS:** Except as otherwise expressly provided in the Terms and Conditions or any separate written warranty, any service calls or other service work performed by Seller shall be at the expense of Buyer in accordance with Seller's standard rates for such services.

19. **SOURCE INSPECTION:** Except as otherwise expressly provided in the Terms and Conditions, Buyer shall have no right to enter Seller's premises to conduct source or other inspections. If Seller permits any such inspection, all agents of Buyer entering Seller's premises shall be subject to Seller's usual security requirements, including without limitation the execution and delivery of appropriate nondisclosure agreements.

20. **NON-WAIVER OF DEFAULT:** No failure by Seller to insist on strict performance of any provision of the Terms and Conditions shall constitute a waiver of such provision or any breach thereof, nor shall such failure in any way affect Seller's legal remedies with respect to any breach or default by Buyer.

21. **APPLICABLE LAW:** This agreement shall be governed by and construed in accordance with the laws of the State of Kansas, U.S.A., as applied to contracts entered into and to be performed entirely within the State of Kansas, U.S.A.

22. **ASSIGNMENT:** Buyer may not transfer, assign or delegate any contract evidenced by or subject to the Terms and Conditions, or any interest in or rights or duties under any such contract, by operation of law or otherwise, without the prior express written consent of Seller, and any attempted transfer, assignment or delegation of any such contract or any rights or duties thereunder without such consent shall be void. Seller has the absolute and unrestricted right to assign its rights and delegate its duties under any such contract.

23. **ENTIRE AGREEMENT; MODIFICATION:** The Terms and Conditions supersede all prior written and oral agreements and understandings between Seller and Buyer with respect to any transaction subject to the Terms and Conditions. No representation or statement not contained in the Terms and Conditions shall be binding upon Seller as a warranty or otherwise. No addition to or waiver, modification or cancellation of any provision of the Terms and Conditions shall be binding upon Seller unless in writing and signed by a duly authorized representative of Seller. Without limiting the generality of the foregoing, no addition to or modification of the Terms and Conditions shall be effected by or result from Seller's receipt or acceptance of Buyer's purchase orders, confirmations or other documents or communications or by manufacture or shipment of goods or performance of services.

24. **NOTICES:** All notices and other communications under the Terms and Conditions shall be in writing and shall be mailed by first-class, registered or certified mail, postage prepaid, to the parties at their respective addresses, subject to the right of either party to change such address upon ten (10) days' prior written notice.

25. **EXPENSES OF SUIT:** If legal action is commenced to enforce the performance of any part of any contract evidenced by or subject to the Terms and Conditions, including, without limitation, any action to enforce payment of the price of goods or services, the prevailing party shall be entitled to recover from the other party, as part of the judgment, the reasonable attorneys' fees and expenses incurred by the prevailing party in connection with the action.

26. **TITLES:** The titles preceding the paragraphs of these terms and conditions are for reference only, and shall be disregarded in the construction hereof.

27. **GENERAL:** (a) Seller's obligations hereunder will be dependent upon Seller's ability to obtain the necessary raw materials. (b) All correspondence pertaining to this order, or to any of the Terms and Conditions covered by this order, will be in the English language. (c) All quotations of Seller are subject to change at any time prior to acceptance of an order and expire thirty (30) days from their respective dates. (d) All prices are subject to change without notice and may be subject to any increase which may be in effect on the date of shipment. (e) Any provisions in any purchase order, quotation, acknowledgment or other forms or contract documents applicable to

sales of Seller's products which are inconsistent, or in conflict, with any of the provisions of the Terms and Conditions will be deemed to be inapplicable to such sales.