



TERMS AND CONDITIONS

GOVERNING TERMS; ACCEPTANCE OF ORDERS

These Terms and Conditions (these “**Terms**”) are the only terms which govern the sale of goods (“**Goods**”) by OKAY Industries, Inc. (“**OKAY**”) to the buyer (the “**Buyer**”) identified on the accompanying quotation (the “**Quotation**”). The Quotation and these Terms (collectively, the “**Agreement**”) 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. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless of whether or 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. All orders are subject to acceptance by OKAY, and fulfillment of an order by OKAY shall constitute an acceptance of an order pursuant to these Terms only. OKAY may, in its sole discretion and at any time for any reason, change these Terms or any policies, instructions or guidelines. It is the Buyer’s responsibility to review, understand and comply with these Terms and any related policies, instructions or guidelines which may be updated from time to time and posted on OKAY’s website.

PRICES AND TERMS

Prices and quotations set forth in a Quotation are firm for 30 days from the date of OKAY’s Quotation and are thereafter subject to change in OKAY’s sole and absolute discretion and with notice. For orders specifying that Buyer requires at least six (6) months’ supply of Goods, quoted prices shall be firm for twelve (12) months from the date of the quotation. OKAY shall have no obligation to commit to a specific schedule so identified in a Quotation unless and until it has accepted the entire order set forth in the applicable Quotation.

TAXES

Unless otherwise specified in the Quotation, all prices for Goods identified on a Quotation are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind. Buyer shall be responsible for collection, withholding and payment of all such charges, costs and taxes; provided, however, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, OKAY’s income, revenues, gross receipts, personnel or real or personal property or other assets.

PAYMENT

Payment against all invoiced amounts due to OKAY shall be made net 30 days from the date of OKAY’s invoice. Buyer shall make all payments hereunder in US dollars. Buyer shall pay interest on all late payments at two percent (2%) per month. Buyer shall reimburse OKAY for any and all costs of collecting any late payments, including reasonable attorney’s fees. OKAY shall have the right, exercisable in its sole discretion, to suspend the delivery of Goods under existing or future Quotations if Buyer fails to pay any amounts due hereunder and such failure continues for a period of thirty (30) days following written notice thereof. Buyer shall not have the right to withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with OKAY, whether relating to OKAY’s breach or otherwise.

CANCELLATIONS

Orders may be cancelled only with prior written consent of OKAY, which consent OKAY may withhold or condition in its sole discretion, and are subject to a cancellation charge for material and/or work performed.

SHIPMENTS

All Goods shall be shipped by OKAY Incoterms® 2020 - EXW except as otherwise expressly provided in a Quotation. OKAY shall ship Goods using OKAY’s standard methods for packaging and shipping the Goods, except as otherwise stated in a Quotation. OKAY reserves the right to make partial shipments of Goods to Buyer, and Buyer agrees to pay for Goods shipped regardless of whether such shipment is in whole or partial fulfillment of an order. In the event that delivery of Goods is attempted unsuccessfully or cannot be made to Buyer’s delivery address identified on a purchase order as a result of incorrect, inaccurate or incomplete delivery instructions, documents or authorizations provided by Buyer, then: (a) the risk of loss to Goods shall be deemed to pass to Buyer when delivery is attempted or at the time of delivery to the delivery point specified in the purchase order; (b) the Goods shall be deemed to have been delivered; and (c) OKAY, 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).

SPECIAL PRODUCTS

OKAY may ship and deliver to Buyer a quantity of Goods which have been custom produced to Buyer’s provided specifications of up to ten percent (10%) more or less than the quantity set forth in a purchase order. 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 Quotation adjusted pro rata. Buyer hereby expressly agrees to indemnify, defend and hold harmless OKAY and OKAY's officers, shareholders, directors, employees, agents, successors and permitted assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of any nature arising out of or relating to claims by third parties that any designs, specifications or other intellectual property provided by Buyer to OKAY for custom produced Goods infringe on the intellectual property rights of such party or any other party.

ENGINEERING

OKAY will be responsible for all normal production maintenance provided that tooling does not go dormant for more than 12 months, in which case tooling maintenance and startup fees may apply. Tools not used for a period of 36 months or longer may be scrapped by OKAY 60 days after customer notification, unless otherwise agreed upon by the parties. Removal of tools may require payment by Buyer of an engineering and development charge. Buyer agrees to pay for any engineering changes made necessary by changes in specifications of Goods or OKAY's standard products. Any such changes shall be made at Buyer's sole and absolute risk, including risk of damage or destruction to Buyer's equipment or tools and any personal injury or death arising out of such changes. Any costs of engineering changes shall be inclusive of engineering, development and tool-making. All design changes shall be the intellectual property of OKAY, and Buyer hereby disclaims and assigns to OKAY any and all right, title or interest Buyer may have thereto. OKAY shall retain exclusive ownership of all any and all drawings, sketches, models and other intellectual property rights of any kind in Goods or involved in or related to the production of Goods.

TITLE

Title passes to Buyer upon delivery of the Goods to a carrier. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to OKAY 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 hereunder constitutes a purchase money security interest under the Uniform Commercial Code as adopted by the State of Connecticut, as amended from time to time.

INSPECTION; NONCONFORMING GOODS; REMEDY

Buyer shall inspect delivered Goods within a reasonable period of time after delivery thereof (the "**Inspection Period**"). Buyer shall promptly notify OKAY if, following inspection, it determines that any delivered Goods do not conform with the terms of a Quotation ("**Nonconforming Goods**"). Buyer will be deemed to have accepted the Goods unless it notifies OKAY in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by OKAY. In the event that Buyer timely notifies OKAY of any Nonconforming Goods, OKAY shall, in its sole discretion, either (a) replace such Nonconforming Goods with conforming Goods, or (b) credit or refund the price for such Nonconforming Goods. If goods are to be returned, a RMA must be issued by OKAY. If OKAY exercises its option to replace Nonconforming Goods, OKAY shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at OKAY's expense and risk of loss, and at OKAY's discretion with regard to the shipment method, the replaced Goods in accordance with the applicable Quotation. Buyer acknowledges that this paragraph contains Buyer's exclusive remedies for delivery of Nonconforming Goods, and that, except as provided in this paragraph, all sales of Goods to Buyer are final, with no right to return Goods. OKAY shall not be responsible for any Goods reworked outside its plant without prior written permission, nor shall OKAY bear any liability connected with, arising out of or resulting from the use of such altered Goods. If Buyer rejects or otherwise notifies OKAY that Goods do not conform to a Quotation (in accordance with this paragraph as a result of Buyer's inspection of Goods or parts thereof with special gauge(s), tools or other implements, Buyer agrees to furnish OKAY with an identical gauge, tool or implement at Buyer's sole expense (including any cost of shipment).

DELIVERY

The Goods will be delivered within a reasonable time after the receipt of Buyer's purchase order, subject to availability of finished Goods. The quantity of any installment of Goods as recorded by OKAY on dispatch from OKAY's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. OKAY shall not be liable for any non-delivery of Goods (unless caused by OKAY's gross negligence or more culpable act or omission) unless Buyer gives written notice to OKAY of the non-delivery within thirty (30) days of the date when the Goods would in the ordinary course of events have been received. Any liability of OKAY 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.

LIMITATION OF LIABILITY

IN NO EVENT SHALL OKAY BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, DIMINUTION IN VALUE OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND

WHETHER OR NOT OKAY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL OKAY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS OR THE SALE OF GOODS TO BUYER, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO OKAY FOR THE GOODS SOLD HEREUNDER OR \$500,000, WHICHEVER IS LESS.

LIMITED WARRANTY

OKAY warrants that for a period of six (6) months from the date of shipment of Goods, that such Goods will materially conform to the specifications set forth in the applicable Quotation, or, in the absence thereof, to OKAY's published specifications as of the date of such Quotation. EXCEPT FOR THE FOREGOING LIMITED WARRANTY, OKAY MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR WARRANTY OF TITLE, WHETHER EXPRESS OR IMPLIED AND WHETHER ARISING BY COURSE OF DEALING, USAGE IN TRADE, COURSE OF PERFORMANCE OR OTHERWISE. OKAY MAKES NO REPRESENTATION OR WARRANTY REGARDING ANY THIRD PARTY PRODUCT OR SERVICES INCORPORATED INTO OR USED IN CONNECTION WITH THE GOODS. OKAY SHALL BEAR NO LIABILITY FOR A BREACH OF ANY WARRANTY UNLESS BUYER SHALL HAVE NOTIFIED OKAY IN WRITING OF A DEFECT WITHIN TEN (10) DAYS FOLLOWING THE TIME WHEN BUYER DISCOVERED, OR SHOULD HAVE DISCOVERED, SUCH DEFECT, AND OKAY IS PROVIDED A REASONABLE OPPORTUNITY TO EXAMINE SUCH GOODS AND OKAY REASONABLY VERIFIES BUYER'S CLAIM THAT THE GOODS ARE DEFECTIVE. BUYER'S SOLE AND EXCLUSIVE REMEDY FOR A BREACH OF THE LIMITED WARRANTY SET FORTH HEREIN SHALL BE THE REPLACEMENT OR REPAIR (AT OKAY'S SOLE DISCRETION) OF GOODS. THE FOREGOING REMEDY SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY, AND REPRESENTS OKAY'S ENTIRE LIABILITY, FOR ANY BREACH OF THE LIMITED WARRANTY CONTAINED HEREIN. OKAY shall not be liable for a breach of the warranty set forth herein if: (a) Buyer makes any further use of such Goods after giving OKAY notice of the defect; (b) the defect arises because Buyer failed to follow OKAY's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (c) Buyer alters or repairs such Goods without the prior written consent of OKAY.

TERMINATION

In addition to any other remedies that may be provided under these Terms, at law or in equity, OKAY shall have the right to terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement and such failure continues for thirty (30) days after Buyer's receipt of written notice of nonpayment; (b) fails to comply with any of the terms or conditions hereof; or (c) becomes insolvent, files a petition for bankruptcy or makes a general assignment in favor of its creditors.

GOVERNING LAW AND SUBMISSION TO JURISDICTION

These Terms and the sale of Goods pursuant hereto shall be governed by and construed in accordance with the internal laws of the State of Connecticut without giving effect to any choice or conflict of law provision or rule (whether of the State of Connecticut or otherwise). Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Connecticut in each case located in the City of Hartford and County of Hartford, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

ASSIGNMENT

Buyer shall not assign any of its rights or delegate any of its obligations under, in or pursuant to these Terms without the prior written consent of OKAY. Any purported assignment or delegation in violation of this paragraph is null and void, and no unpermitted assignment or delegation shall relieve Buyer of any of its obligations under these Terms.

WAIVER

No waiver by OKAY of any of its rights or the obligations of Buyer shall be effective unless explicitly set forth in writing and signed by an authorized representative of OKAY. No failure to exercise, or delay in exercising, any right, remedy, power or privilege set forth in these Terms or available to OKAY at law or in equity shall operate or 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.

COMPLIANCE WITH LAWS

Buyer shall comply with all applicable laws, regulations and ordinances applicable to it in connection with the performance of its obligations hereunder. Buyer shall maintain in effect all necessary licenses and permits that it needs to carry out its obligations under these Terms. 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. OKAY may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

CONFIDENTIAL INFORMATION

All non-public, confidential or proprietary information of OKAY, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by OKAY to Buyer, 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 this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by OKAY in writing. Upon OKAY’S request, Buyer shall promptly return all documents and other materials received from OKAY. OKAY shall be entitled to injunctive relief for any violation of this paragraph. This paragraph does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

INSURANCE

During the term of this Agreement and for a period of two (2) years thereafter, Buyer shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$1,000,000 with financially sound and reputable insurers. Upon OKAY’S request, Buyer shall provide OKAY with a certificate of insurance from Buyer’s insurer evidencing the insurance coverage specified in these Terms. Buyer shall provide OKAY with thirty (30) days’ advance written notice in the event of a cancellation or material change in Buyer’s insurance policy. Except where prohibited by law, Buyer shall require its insurer to waive all rights of subrogation against OKAY’s insurers and OKAY.

FORCE MAJEURE

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to OKAY hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party’s (“**Impacted Party**”) reasonable control, including, without limitation, the following force majeure events (“**Force Majeure Event(s)**”): (a) acts of God; (b) flood, fire, earthquake, epidemics, pandemics or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) shortage of adequate power or transportation facilities; and (i) other events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within thirty (30) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party’s failure or delay remains uncured for a period of thirty (30) consecutive days following written notice given by it under this paragraph, either party may thereafter terminate this Agreement upon thirty (30) days’ written notice.

RELATIONSHIP OF THE PARTIES

The relationship between the parties is that of independent contractors. Nothing contained in this Agreement 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.

NO THIRD-PARTY BENEFICIARIES

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 these Terms.

NOTICES

All notices and other communications hereunder (each, a “**Notice**”) with respect to claims, demands, waivers, liabilities or warranties shall be in writing and addressed to the parties at the addresses set forth on the face of the Quotation 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), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, 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.

SEVERABILITY

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