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OUR NEXT ENERGY INC. TERMS AND CONDITIONS OF SALE

Version 20260901 | Effective September 1, 2026

1. **Offer and Acceptance.**
   a. These Terms and Conditions of Sale (these "***Terms and Conditions***"), together with the terms of any other document in which these Terms and Conditions are attached, apply to, or are incorporated (collectively, this "***Agreement***"), apply to (i) any quotation, proposal, or offer to sell ("***Offer***") made by Our Next Energy Inc. ("***Seller***") for the sale of Seller's goods and/or services (collectively, the "***Goods***"); (ii) any purchase order or related attachments, schedules, exhibits, designs and drawings (collectively, an "***Order***"), issued by the buyer-party purchasing the Goods or that party's subsidiaries and affiliates (collectively, "***Buyer***"); and (iii) any written master purchase or supply agreement entered into by Seller and Buyer for the sale of the Goods. Buyer accepts, and will be deemed to be bound by, the terms of this Agreement upon the first to occur of the following: (A) Buyer's written acknowledgment of this Agreement; (B) Buyer placing an Order with Seller; (C) delivery of the Goods by Seller pursuant to any Order or similar type of request by Buyer; (D) acceptance of the Goods by Buyer; or (E) payment for the Goods by Buyer.
   b. Buyer's acceptance is expressly limited to the terms of this Agreement and this Agreement exclusively governs the sale of Goods by Seller. Any reference in this Agreement to any request for quotation, request for proposal, or any other similar bid document made by Buyer is solely for the purpose of incorporating the description and specifications of the Goods contained in such document, but only to the extent that such description and specifications do not conflict with the description and specifications contained in this Agreement or otherwise agreed to or accepted by Seller in writing. Any additional or different terms proposed by Buyer, whether in Buyer's Order or otherwise (including, without limitation, Buyer's general terms and conditions of purchase), or any attempt by Buyer to vary the terms of this Agreement in any way, are expressly rejected by Seller, are not part of this Agreement and do not apply to the sale of Goods, and are not binding on Seller without the express prior written acceptance of such terms by Seller's authorized representative. The parties agree that the "battle of the forms" described in Section 2-207 of the Uniform Commercial Code will not apply to this Agreement or to any Order or other purchasing document of Buyer relating to this Agreement. None of the terms, provisions or conditions of this Agreement may be modified, altered or added to except by written instrument signed by a duly authorized representative of Seller and Buyer. Any agreed upon change may, at Seller's option, be subject to an equitable adjustment in the purchase price and/or time for performance.
2. **Order of Precedence.** These Terms and Conditions govern every sale of Goods and apply as the default terms. If there is a conflict among the documents that form this Agreement, the following order of precedence controls, in each case only to the extent of the conflict: (a) a master purchase or supply agreement signed by authorized representatives of both Seller and Buyer; (b) the specific commercial terms expressly set forth in an offer accepted by Buyer or in Seller's order acknowledgement — namely the description and specifications of the Goods, scope of supply and exclusions, price, quantity, delivery location and Incoterm, delivery schedule, and payment terms — and any terms in Buyer's Order expressly accepted in writing by Seller's authorized representative; and (c) these Terms and Conditions, which control over all other terms, including any other, preprinted, or standard terms in Buyer's Order or other documents, all of which are rejected as provided in this Section 2. For clarity, no term in an Order or other document issued by Buyer varies the warranty, limitation of liability, indemnification, intellectual property, confidentiality, or other risk-allocation provisions of these Terms and Conditions unless expressly agreed in a writing signed by an authorized representative of Seller.
3. **Duration.** Unless otherwise agreed by Seller in writing, the term of this Agreement shall take effect immediately upon the first to occur of the conditions specified in subsections (A) through (E) of Section 1(a) hereof and will expire twelve (12) months thereafter (the "***Term***"). Notwithstanding the expiration or termination of this Agreement, Buyer will be responsible for the payment of any finished Goods, work-in-progress, and all costs incurred for other materials and components with respect to which Seller has committed to procure or in connection with Seller's performance of this Agreement as a result of any Order issued by Buyer to Seller.
4. **Quantity.** Unless otherwise agreed by Seller in writing, if this Agreement does not require Seller to supply a specified quantity of Goods or an Order is designated as "blanket", this Agreement is not a requirements contract. Each Order must be separately accepted by Seller in writing and Seller may reject any Order that is not consistent with the terms of this Agreement. Seller may accept any Order by agreeing to deliver the Goods in writing or delivering such Goods. Any variation in quantities shipped by Seller greater than or less than the quantities ordered (with such variation not to exceed 10%) will constitute compliance with Buyer's Order; provided, however, the stated price will be equitably adjusted to account for any quantities shipped.
5. **Price and Payment.**
   a. Price. Prices for the Goods will be as agreed by Seller and Buyer in a signed writing or, if there is no such writing by the Parties as to the price of the Goods, the price specified in the Offer. Unless otherwise agreed to by the Parties in writing, all Offers are open for acceptance by Buyer for thirty (30) days from the date Seller issues the Offer to Buyer. After the expiration of such thirty (30)-day period, prices and lead times set forth in the Offer are subject to change by Seller without notice and may be re-quoted. All Offers must be in writing and verbal Offers are not binding on Seller unless confirmed in a writing signed by Seller. Any prices shown in any other material of Seller (including catalogs, brochures, and websites) are subject to change without notice. Unless otherwise agreed to by Seller in a signed writing, Seller's prices do not include transportation, freight, handling, special handling, delivery and insurance costs or any foreign or domestic federal, state, provincial and local taxes (including sales, use, value-added and excise taxes), assessments, tariffs, duties, and any similar fiscal contribution related to the sale, use, shipment, transportation, or delivery of the Goods, all of which shall be the sole responsibility of Buyer and payable by Buyer (whether directly or by reimbursement to Seller) in addition to Seller's price.
   b. Payment. Buyer will pay for all Goods without setoff, recoupment, or deduction of any kind, in U.S. dollars. Unless otherwise set forth in a writing signed by Seller, payment in full for the Goods will be due and payable within thirty (30) days following the earlier of (i) Buyer's receipt of Seller's invoice or (ii) Buyer's receipt of the Goods. Buyer will not be entitled to any discount for early payment. If payment is not made as provided for in this Agreement, Seller may, at its option and without notice: (A) suspend performance of its obligations under this Agreement, including, without limitation, delay or suspend shipments to Buyer until such breach has been cured; (B) require payment in advance as to future deliveries or require security to ensure payment; (C) demand return from Buyer of any Goods for which payment has not been made; or (D) terminate this Agreement without liability to Buyer. If Seller's performance or shipment is, for any reason, delayed or suspended at the request of Buyer, payment shall be due on the date when Seller is prepared to make shipment and such payments shall be made based on the purchase price and the percentage of completion of the Goods. All amounts due to Seller but not paid by Buyer on the due date will bear interest on the unpaid balance of amounts due at a rate that is equal to one and one-half percent (1.50%) per month until paid. Buyer shall be responsible for and shall pay to Seller any and all legal fees and costs incurred by Seller to collect any overdue balances. If deliveries of Goods are to be made in installments, the purchase price of each installment shall, at Seller's option, be recoverable as a separate sale. The remedies contained in this Section 5 are cumulative and shall be in addition to all other rights and remedies available to Seller under this Agreement or applicable law.

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6. **Delivery; Import and Export; Risk of Loss.**
   a. Delivery dates are estimates only and Seller will use commercially reasonable efforts to deliver the Goods on dates requested by Buyer. All delivery dates are subject to Seller's lead times as communicated by Seller to Buyer. Unless otherwise agreed by the Seller in writing, seller shall not be liable for any delay in delivery of any kind, regardless of cause or extent. All sales and delivery dates are contingent on the ability of Seller and its suppliers and manufacturers to secure any applicable raw materials and the absence of any Force Majeure Event (as defined below). Unless otherwise agreed in writing by Seller, Seller will deliver the Goods EX WORKS (Incoterms 2020) to Buyer's carrier at Seller's dock, Van Buren, Michigan. Title and risk of loss to the Goods will pass to Buyer when the Goods are placed in the possession of Buyer's carrier; provided, however, Seller shall retain a purchase-money security interest in the Goods as security until such time as payment in full is received.
   b. Failure to Take Delivery; Bailment and Storage. If, for any reason attributable to Buyer (including Buyer's failure or refusal to take delivery, provide shipping instructions, or collect the Goods when Seller notifies Buyer that the Goods are ready), the Goods are not shipped to or collected by Buyer within ten (10) days after Seller notifies Buyer that the Goods are ready for delivery, then, at Seller's option and without further notice: (a) delivery shall be deemed to have occurred and title and risk of loss shall pass to Buyer as of the date the Goods were ready; (b) all amounts that would have become due upon delivery or shipment shall become immediately due and payable, and Seller may invoice Buyer accordingly; (c) Seller shall hold the Goods solely as bailee for Buyer's account and risk, with the Goods separately identified as Buyer's property, segregated, and held ready for physical transfer to Buyer, and Seller shall have no liability for any loss of or damage to the Goods except to the extent caused by Seller's gross negligence; and (d) Buyer shall pay Seller an automatic storage and warehousing fee equal to one percent (1.0%) of the price of the stored Goods per week, together with all costs of handling, insurance, and rigging into and out of storage, invoiced monthly until the Goods are collected. Seller's placement of the Goods into storage, whether at Seller's facility or a third-party warehouse, shall satisfy Seller's delivery obligations under this Agreement. Seller assumes no liability for any loss or damage to Goods during shipment or transportation, whether from the manufacturing facility and regardless of whether Buyer or Seller is responsible for the transportation of the Goods. Buyer must inspect shipments before shipment or during unloading to identify any such loss or damage. Any claims for lost or damaged Goods by Buyer must be made to the applicable third-party carriers or freight forwarders, as applicable. Buyer will be deemed to have accepted the Goods, and to have irrevocably waived any right to reject or revoke acceptance of the Goods or to claim any shortage, excess, or non-conformity apparent on reasonable inspection, unless Buyer delivers to Seller written notice specifying the nonconformity within ten (10) days after delivery of the Goods. Acceptance of the Goods will not waive Buyer's rights under the Seller Warranty with respect to defects not reasonably discoverable within that period, which are governed solely by Section 13. Seller may, at its option, deliver all Goods in one lot or several lots from time to time, as long as such delivery are within the time set forth in the Order or this Agreement, as the case may be. To the extent delivery is in several lots, Buyer agrees that the prices for the Goods may, at Seller's option, be apportioned and payment may be required for each lot.
   c. Unless agreed in writing by Seller, Buyer or its designated agent: (i) will be the importer and exporter of record on all cross-border transfers, returns, and others shipments of Goods, (ii) will not list Seller on any import, export, or other customs documentation, and (iii) will be directly responsible for ensuring that such cross-border transfers and shipments of the Goods comply with all export, import and other applicable laws (including export licensing, shippers export declaration, and export invoice). As the importer and exporter of record, Buyer or its designated agent will be responsible for payment of any taxes, duties or fees, and will be responsible for all required recordkeeping, registration, reporting and licensing. Seller will incur no liability arising from or relating to any assistance Seller provides in preparing any related transportation or logistics documents or otherwise. Seller shall not be responsible for the accuracy of shipping weights, if any, listed on any transportation or logistics documents. Such weights are given only for the purpose of enabling Buyer to estimate shipment cost.
7. **Force Majeure.** Seller will not be liable, or deemed in default, for any failure or delay in fulfilling or performing any of its obligations under this Agreement if such failure or delay is caused by, or results from, acts beyond Seller's reasonable control, whether or not foreseeable, including, without limitation, fire, flood, drought, acts of nature, war, hostilities, terrorist threats or acts, riot or other civil unrest, strikes, lockouts, slowdowns or other labor unrest, delays in transportation, shortage of power, unavailability of raw materials, increase in costs by governmental action such as, without limitation, tariffs, duties, and other similar charges that were not in place at the commencement of this Agreement, embargo, government action (including any law, rule, order or action of any court or instrumentality of the federal or of any state government or Seller's good faith compliance with any governmental directive concerning the health and safety of Seller's personnel), earthquake, explosion, emergency (whether national, regional, state, or local), pandemic, epidemic, plague, disease, virus, other outbreak, quarantine or travel restrictions (individually and collectively, a "***Force Majeure Event***"). A Force Majeure Event experienced by Seller's subcontractors, suppliers, or third party manufacturers (or any other party in Seller's supply chain) will be deemed a Force Majeure Event as to Seller. During the period of a Force Majeure Event, at Seller's option, either (a) the date of delivery of any Goods shall be extended for a period equal to the time lost due to such Force Majeure Event, or (b) any quantity of Goods affected by such Force Majeure Event shall be deducted from the total quantity required to be supplied by Seller to Buyer. During any Force Majeure Event, Seller may allocate its available supply of Goods, components, materials and labor among itself and its customers on whatever basis Seller deems reasonable and equitable, and Buyer agrees that Seller is not required to mitigate any impact of a Force Majeure Event.
8. **Cancellation and Changes.** Buyer may not cancel Orders, change the timing of scheduled shipments, or direct temporary suspension of scheduled shipments without Seller's prior written consent. Cancellations of Orders or rescheduling of shipments shall, in addition to all other rights and remedies of Buyer, be subject to cancellation charges which will include (a) payment of any finished Goods, work-in-progress, and all other materials made, purchased by Seller, or otherwise committed for the Order; (b) any liability, damages, or claims incurred by Seller arising from such cancellation; and (c) the gross profit on the cancelled portion of the Orders, which amount will not equal less than fifteen percent (15%) of the unpaid portion price. The cancellation charges described in the preceding sentence are not a penalty or liquidated damages, but are in recognition of the lost opportunity cost to Seller. All changes to Orders must be submitted by Buyer to Seller in writing and will not be effective unless and until Seller consents in writing to the change(s). Seller will advise Buyer in writing of the price and/or delivery schedule impact, if any, due to a change request. Seller will not be required to accept any changes without Buyer's prior written acknowledgement of price and/or delivery schedule adjustments, if any.
9. **Identification of Goods; Title to and Payment for Work in Process.** Certain Goods are manufactured to Buyer's specifications and are not of a standard configuration that Seller markets to other customers ("***Custom Goods***"). Once Seller allocates Custom Goods, or work-in-progress for Custom Goods, to an accepted Order, Seller will identify those items to that Order and, notwithstanding any allocation right of Seller elsewhere in this Agreement, will not redirect them to, or use them for, any other customer; the Parties acknowledge that Custom Goods have no alternative use to Seller. Throughout Seller's performance of an Order, Seller will have an enforceable right to payment for its performance completed to date; and if an Order is cancelled or terminated for any reason other than Seller's uncured material breach, Buyer will pay Seller for all finished Goods, work-in-progress, and committed materials allocable to the Order, valued at Seller's costs incurred plus a reasonable profit margin thereon, as further set forth in this Section 9 and in the Termination for Convenience provision. Upon Buyer's payment for any finished Goods or work-in-progress under this Agreement (whether on cancellation, termination, or otherwise), title to and risk of loss for those items will pass to Buyer at the time of payment, and such items will be delivered to Buyer, or held for Buyer by Seller as bailee, in accordance with Section 6.

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10. **Volume Commitment.** Seller will not be required to sell a greater quantity of Goods than Seller, in its discretion, or Seller's subcontractors has available or has allocated for this Agreement. If Seller is unable to supply Buyer's total orders for any Goods, Seller may allocate its available supply among its customers in any manner Seller deems reasonable and equitable.
11. **Intellectual Property.** Except to the extent provided in a separate written agreement between Buyer and Seller, this Agreement will not be deemed to transfer, assign, or license any right, title, or interest in and to, any idea, invention, concept, discovery, work of authorship, software, patent, copyright, trademark, trade secret, know-how, formula, design, engineering drawing, device, compilations of information, manufacturing methods or processes, tooling or other intellectual property owned by a party or its third party licensors (collectively, "***Intellectual Property***"). Buyer will not use Seller's or its subcontractor's Intellectual Property, in whole or in part, to copy, redesign, reverse engineer, replicate or manufacture (or enable manufacture by itself or any third party) all or any portion of the Goods. Notwithstanding anything to the contrary, (a) all software and other works-of-authorship embedded in, or provided to Buyer in connection with, the Goods (collectively, "***Embedded Software***") is not sold to Buyer and is licensed solely for the reasonable use of those Goods on which such Embedded Software is provided and on a limited and non-exclusive basis, and (b) all data included with, or generated or collected by, the Embedded Software is exclusively owned by Seller (collectively, "***Seller Data***") and Buyer disclaims any and all right, title, or interest in or to such Seller Data. Buyer shall not access or transfer, attempt to access or transfer, permit any third party to access or transfer, or restrict Seller access to the Seller Data or the underlying code for the Embedded Software for any reason including on alternate or substitute Goods. Without limiting the foregoing, Buyer shall (i) ensure that Seller, at all times, has reasonable access to Seller Data via remote or direct connection or, where Buyer's site security, regulatory, or contractual requirements preclude such access, via a mutually agreed alternative method that provides Seller the Seller Data on a regular basis, (ii) not interfere with Seller's ability to access Seller Data in connection with its remote and direct connection to the Embedded Software, (iii) assist Seller in connection with maintaining its uninterrupted access to Seller Data, and (iv) require that any users or subsequent purchasers of the Goods comply with the provisions of this Section 11.
12. **Confidentiality.** All Intellectual Property, and all other confidential and proprietary information provided by a party ("***Disclosing Party***") to another party ("***Receiving Party***") under this Agreement including, without limitation, any samples, drawings, know-how, processes, and other technical, business, or financial information, whether provided orally, in writing, by demonstration, or otherwise (collectively, "***Confidential Information***"): (a) is owned by the Disclosing Party; (b) must be kept confidential by Receiving Party and may not be disclosed by Receiving Party to third parties without the express prior written consent of Disclosing Party; *provided*, *however*, Receiving Party may disclose Disclosing Party's Confidential Information to Receiving Party's employees, attorneys, agents, and subcontractors who have a "need to know" the Confidential Information for purposes of performing Receiving Party's obligations under this Agreement as long as such individual and entities are bound by confidentiality terms no less restrictive than those contained in this Agreement; and (c) may not be used by Receiving Party other than is required for Receiving Party to perform its obligations under this Agreement. The confidentiality restrictions in this Section 12 do not apply to information which is (i) already known by the Receiving Party prior to the date of this Agreement and without breach of the confidentiality restriction that the Receiving Party was subject; (ii) acquired by the Receiving Party from a third party which was not, to the knowledge of Receiving Party, under an obligation to the Disclosing Party not to disclose such information; (iii) which is or becomes publicly available through no breach by Receiving Party of confidentiality restrictions to which such Party is or was subject; or (iv) independently developed by the Receiving Party without the use of the Disclosing Party's Confidential Information. Notwithstanding the above, a Receiving Party may disclose Disclosing Party's Confidential Information if required by a judicial or government request, requirement, or order as long as (A) to the extent not prohibited by law, Receiving Party gives Disclosing Party written notice prior to such disclosure and (B) Receiving Party only discloses that portion of Confidential Information required to comply with such request, requirement, or order. Upon the termination or expiration of this Agreement, Receiving Party shall return, or destroy (to the extent feasible), Disclosing Party's Confidential Information in Receiving Party's possession; provided, however, Receiving Party may retain one (1) copy of Confidential Information to the extent required to comply with any legal obligation or internal document retention policy, so long as Receiving Party continues to comply with the provisions of this Agreement. The obligations in this Section 12 with respect to each item of Confidential Information will continue for five (5) years after the expiration or termination of this Agreement, except that Confidential Information that constitutes a trade secret will remain protected for so long as it remains a trade secret under applicable law.
13. **Warranty.**
    a. Seller Warranty. Subject to the limitations set forth in this Agreement, Seller warrants to Buyer (and not to any third party) during the Warranty Period (as defined below) that the Goods will (i) be free from significant defects in material and workmanship, (ii) conform to specifications and drawings agreed to by Seller in writing, (iii) not be refurbished or reconditioned, (iv) be free and clear of all liens and security interests incurred by Seller, and (v) not directly infringe on any published United States patents (the "***Seller Warranty***"); provided, however, the Seller Warranty will not apply (A) with respect to subsection (ii) hereof, if Buyer approves any sample, drawing, specification, or standard; (B) to a decrease in capacity of the Goods such that the capacity is less than the end-of-warranty State of Health (SOH) threshold for such Good set forth in the Warranty Schedule (and, if none is specified, seventy percent (70%)) of the original capacity of the Good, as reasonably determined by Seller; (C) to any improper use, packing, packaging, storage, unauthorized service, repair, modification or opening of the Goods without Seller's prior written consent; (D) to any damage to the Goods in transit, during handling, or when in Buyer's or its customers' possession; (E) to any use of the Goods to support any objects capable of bending the lid or any portion of the Goods; (F) to operation of the Goods outside the limits set forth in this Agreement, including, without limitation, (1) violation of the electrical current and/or power limits, (2) injection of overvoltage, (3) reverse polarity; and (4) operation of the Goods outside thermal, voltage, or other limits set forth in this Agreement; (G) to any damage or performance decay of the Goods caused by natural or environmental factors that are beyond the limits of the Goods set forth in this Agreement, including, without limitation, fire, flood, traffic accidents, lightning, earthquakes, and excessive heat; (H) if Buyer or its customers fail to timely properly implement upgrades and/or preventive maintenance as communicated by Seller; and (I) if accumulated operation time limits are within different temperature windows outside the limits set forth in this Agreement. **THE SELLER WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS, STATUTORY OR IMPLIED, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY SELLER, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF SELLER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, REPAIR, OR PERFORMANCE OF THE GOODS.** No third party, including any employee or agent of Seller, is authorized to make any representation, promise, or warranty concerning the Goods and any statements made by those parties are not binding on Seller unless in writing signed by an authorized representative of Seller. Any technical advice furnished by Seller or its employees or agents is for Buyer's convenience only and Seller assumes no obligation or liability for the advice given or the results obtained from that advice. A defect in one Good shall not be deemed a defect in all the Goods of a shipment unless each Good is proven to have a defect.

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b. Conditions to Warranty. The Seller Warranty and all of Buyer's remedies under it are conditioned upon Buyer's compliance with each of the following, and failure to comply with any of them renders the Seller Warranty null and void with respect to the affected Goods: (a) proper storage, handling, installation, commissioning, use, operation, and maintenance of the Goods in accordance with (i) the Documentation, if any, provided by Seller, (ii) to the extent not addressed by the Documentation, the Permitted Operating Window and other parameters set forth in the Warranty Schedule, and (iii) otherwise, Seller's reasonable written instructions and good industry practice for products of this type; (b) installation and commissioning of the Goods performed by personnel certified by Seller, or under the supervision of personnel certified by Seller, where Seller so requires; (c) operation of the Goods at all times within the Permitted Operating Window, including all temperature, charge and discharge rate, depth-of-discharge, state-of-charge, voltage, and current limits, and protection of the Goods against surge, over-current, over-voltage, and reverse polarity by appropriate protective devices; (d) Buyer keeping accurate and complete records of the installation, operation, and maintenance of the Goods throughout the Warranty Period and providing those records to Seller upon request; (e) Buyer ensuring that Seller has unrestricted access to the Seller Data and to the battery management system (BMS) and operating data for the Goods, which Seller may use to determine whether the conditions of this Section 13(a) have been met and whether any failure resulted from use of the Goods outside the Permitted Operating Window; and (f) no modification, alteration, opening, or repair of the Goods except as authorized by Seller in writing. Without limiting the foregoing, the Seller Warranty does not cover, and Seller is not responsible for, normal wear and tear, gradual capacity fade within the applicable State of Health (SOH) thresholds, vandalism, accident, abuse, neglect, or any Force Majeure Event. Seller's determination, acting reasonably and including on the basis of Seller Data and BMS or operating data, that any condition of this Section 13(a) has not been met is sufficient grounds for Seller to deny a warranty claim.

c. Warranty Period. The Seller Warranty for the Goods will apply for the base periods set forth in the applicable supply agreement or, if none, the Warranty Schedule (as defined below) (the "***Base Warranty Period***"). Seller's "***Warranty Schedule***" means the schedule of product-specific warranty terms (including the Base Warranty Period and the end-of-warranty State of Health (SOH) and other parameters listed therein) maintained and published by Seller and in effect as of the date Seller accepts the applicable Order, which is incorporated into this Agreement by reference and made available to Buyer with Seller's Offer or upon request. If a Base Warranty Period for a Good is specified in a signed supply agreement, that period controls; otherwise the Base Warranty Period is the period set forth in the Warranty Schedule for such Good; and if neither specifies a Base Warranty Period, the Base Warranty Period will be twelve (12) months from the date of delivery of such Good in accordance with Section 6(a). The Seller Warranty applies only during, and is not a warranty of future performance beyond, the applicable Warranty Period; no cause of action for breach of the Seller Warranty accrues, and no such claim may be brought, after the period specified in the Limitation of Liability section of this Agreement.

d. Extended Warranty Period. Buyer may, no later than twelve (12) months from delivery (in accordance with Section 6(a) herein) of a particular unit of the Goods, purchase an extension to the Base Warranty Period (the "***Extended Warranty Period***" and together with the Base Warranty Period, collectively, the "***Warranty Period***") for such Goods (which will extended the applicable Base Warranty Period) in accordance with this Agreement. Notwithstanding anything to the contrary in this Agreement, during the Extended Warranty Period, a decrease in capacity of the Goods that is not greater than the extended-period State of Health (SOH) threshold for such Good set forth in the Warranty Schedule (and, if none is specified, seventy percent (70%)) of the original capacity therefor, in accordance with the specifications for such Goods, is permitted and is not covered by the Seller Warranty. For the avoidance of doubt, each Extended Warranty Period applies only to one unit of the Goods, and the Extended Warranty Period fee must be purchased by Buyer on a per-Goods basis.

e. Warranty Claims. In order to make a claim under the Seller Warranty, Buyer must (i) notify Seller, in writing, of the alleged claim or defect and such writing must (A) set forth with specificity the nature of the defect in the Seller Warranty and (B) be delivered to Seller no later than thirty (30) days following Buyer's discovery of the defect; (ii) provide Seller with all supporting documentation to substantiate the claim and (iii) reasonably assist Seller, at no cost or expense to Seller, in the identification and detection of any alleged defect. Seller reserves the right to test or inspect the Goods to confirm the defect as a condition to any remedy under the Seller Warranty. In the event Seller's test or inspection of the Goods concludes that the Goods were not defective, Buyer shall be responsible for all costs and expenses incurred by Seller for such test or inspection (including, without limitation, any return shipping costs).

f. Exclusive Remedy. **BUYER'S SOLE AND EXCLUSIVE REMEDY AGAINST SELLER, AND SELLER'S SOLE OBLIGATION FOR ANY AND ALL CLAIMS, WHETHER FOR BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL BE LIMITED TO, AT SELLER'S OPTION, SELLER REPLACING THE NON-CONFORMING GOODS WITH CONFORMING GOODS, REPAIRING THE APPLICABLE GOODS, OR REFUNDING THE PURCHASE PRICE PAID BY BUYER TO SELLER FOR THE APPLICABLE GOODS. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR DAMAGES IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE APPLICABLE GOODS.**

g. Withdrawal of Goods. If Seller determines that any Goods sold to Buyer may be defective, at Seller's request, Buyer will withdraw all such Goods from sale and, at Seller's option, either return such Goods to Seller or destroy the Goods and provide Seller with written certification of such destruction.

14. **Limitation of Liability. EXCEPT AS EXPLICITLY SET FORTH IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY, FOR (I) ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY DIRECT OR INDIRECT LOST PROFITS OR REVENUE REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR A PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE OR (II) ANY DIRECT DAMAGES IN AN AMOUNT EXCEEDING THE PRICE PAID OR PAYABLE FOR THE GOODS AT ISSUE; PROVIDED, HOWEVER, SELLER SHALL BE ENTITLED TO THE AMOUNT PAYABLE FOR THE GOODS AND THE FOREGOING SHALL NOT BE DEEMED TO LIMIT SELLER'S RIGHT TO SUCH PAYMENT EVEN TO THE EXTENT THAT SUCH PRICE INCLUDES SELLER'S PROFIT.** All liability of Seller arising out of or relating to this Agreement or the Goods will end upon expiration of the applicable Warranty Period, provided that Buyer may continue to enforce a claim for which it has given Seller written notice prior to such expiration by commencing a legal proceeding before the expiration of any applicable statute of limitations, but in no event later than one (1) year after expiration of the applicable Warranty Period.

15. **Termination for Cause.** Either party may terminate this Agreement for cause prior to expiration of the Term by providing written notice to the other party specifying the applicable date of termination, upon the occurrence of any one or more of the following events: (a) as to Buyer, any failure of Buyer to pay Seller, in full, for the Goods when such payment is due; (b) excluding Buyer's payment obligations to Seller, a party materially breaches this Agreement and does not cure such breach within ten (10) days after receipt of written notice of such breach; or (c) a party (i) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (ii) is dissolved or liquidated or takes any corporate action for such purpose; (iii) makes a general assignment for the benefit of creditors; or (iv) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business. Any termination by a party pursuant to this Section 15 will not constitute a waiver of any of any rights or remedies under this Agreement or otherwise provided by law. Termination for Convenience. Notwithstanding the foregoing, Buyer may terminate this Agreement or any Order, in whole or in part, for its convenience upon thirty (30) days' prior written notice to Seller, provided that such termination will not be effective unless and until Buyer pays Seller, within fifteen (15) days following the effective date of termination, an amount equal to the sum of: (a) the purchase price of all finished Goods allocable to the terminated Order; (b) Seller's costs incurred for all work-in-progress attributable to the

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terminated Order, including labor, overhead, and partially completed Goods, valued at Seller's standard cost plus the applicable margin; (c) the cost of all raw materials, components, and other items procured or committed by Seller for the terminated Order that Seller cannot reasonably cancel, return, or redeploy; (d) any cancellation, restocking, or termination charges payable by Seller to its own suppliers in connection with the terminated Order; and (e) the gross profit Seller would have realized on the terminated portion of the Order, which amount will not be less than fifteen percent (15%) of the price of the terminated portion. Upon Buyer's payment in full of the foregoing, title to the finished Goods and work-in-progress so paid for will pass to Buyer, and Buyer will take delivery of such Goods in accordance with Section 6. The foregoing payment is in recognition of Seller's lost opportunity cost and Buyer's reliance obligations and is not a penalty.

16. **Indemnification.** To the maximum extent permitted by law, Buyer will defend, indemnify and hold harmless Seller and its present and future directors, officers, shareholders, members, employees, attorneys, agents, representatives, parents, affiliates, and subsidiaries from and against any and all claims, costs, demands, losses, indirect and direct damages (including lost profits, incidental, consequential, and punitive damages), liabilities, causes of action, judgments, settlements, awards, fines, penalties, assessments, and expenses (including costs of defense, mediation, settlement and reasonable attorneys' and other professionals' fees), however described or denominated, brought by any third party (including, Buyer's employees, subcontractors, laborers, agents, and assigns) arising out or, incidental to, or resulting from (a) Buyer's negligence, use, ownership, maintenance, transfer, transportation or disposal of Goods; (b) any infringement or alleged infringement of the industrial, proprietary, and/or intellectual property rights of others arising from Buyer's plans, specifications (including Buyer's trademarks and brand names) or production of Goods ordered by Buyer; (c) any personal injury, bodily injury (including death), or property damages arising out of any use of the Goods, except to the extent caused by defective Goods or by Seller's negligence or willful misconduct; (d) Buyer's violation or alleged violation of any laws or regulations; (e) any negligent or willful act or omission of Buyer or its respective subcontractors, agents, employees or other representatives; or (f) Buyer's breach of this Agreement.

17. **General Terms.**

a. Notices. All notices, claims and other communications to required or permitted under this Agreement will be made in writing and will be effective only upon receipt. Notices must be delivered to the address of the receiving party set forth in the Order or this Agreement (or such other address as that party designates by notice) by personal delivery, nationally recognized overnight courier, certified or registered mail (return receipt requested), or email to the address designated for notices. A notice is deemed received: on the date of personal delivery; one (1) business day after deposit with an overnight courier; three (3) business days after deposit in the mail as provided above; or, for email, on the date sent if sent during the recipient's normal business hours and otherwise on the next business day, in each case absent a bounce-back or other indication of non-delivery.

b. Entire Agreement. This Agreement, including any attachments, exhibits or supplements attached hereto, and other matter incorporated herein by specific reference, constitutes the entire agreement between Seller and Buyer with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written discussions, understandings, representations and agreements.

c. Subcontracting. Seller may subcontract all or part of the manufacture of the Goods to a third party subcontractor, supplier, or manufacturer and the manufacture of the Goods by such third party is not a breach of this Agreement.

d. Severability. If any clause in this Agreement is determined by a court of competent jurisdiction to be invalid, the invalidity of such clause shall not affect the validity of the remainder of this Agreement.

e. Remedies. Except to the extent limited by this Agreement, the right and remedies reserved to a party under this Agreement are cumulative and in addition to all other rights and remedies provided by law or equity.

f. Assignment. Buyer may not assign this Agreement or assign or delegate it rights or obligations under this Agreement without Seller's prior written consent. Any purported assignment in violation of this Section 17(f) will be null and void and of no force or effect.

g. Governing Law; Venue. This Agreement, and all related documents and matters arising out of or relating to this Agreement, are governed by, and will be construed in accordance with, the laws of the State of Michigan, without regard to any conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from applying to this Agreement. Buyer and Seller each irrevocably and unconditionally agree that the sole and exclusive forum, venue, and jurisdiction for any legal or equitable action or proceeding arising out of or in connection with this Agreement will lie in the United States District Court for the Eastern District of Michigan, the courts in the State of Michigan sitting in Oakland County, and any appellate court with jurisdiction over such courts. The parties hereby irrevocably and unconditionally (i) waive any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding and any claim that any such suit, action or proceeding has been brought in an inconvenient forum including, without limitation, any defense of *forum non conveniens*, international comity, or any other defense based on the location of the parties and (ii) submits to the sole and exclusive personal jurisdiction of such courts. To the extent Buyer is located outside of the United States of America, Buyer agrees that any breach of this Agreement and any resulting injury will be deemed to occur in the State of Michigan, United States of America.

h. Relationship of Parties. Seller and Buyer are independent contracting parties and nothing in this Agreement will make either party the agent or legal representative of the other for any purpose, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other.

i. No Third Party Beneficiary. Except as otherwise provided in this Agreement, the parties agree that the rights and interests of the parties under this Agreement are intended to solely benefit Seller and Buyer.

j. Public Announcements. Except as may be required by applicable law, Buyer will not issue a press release or public announcement, or otherwise make any disclosure concerning this Agreement or the transactions contemplated hereby, without the prior written consent of Seller.

k. Interpretation. For purposes of this Agreement (i) whenever the word "including" (or any variation thereof) is used, it is deemed to be followed by the words "without limitation;" (ii) the word "or" is not exclusive; (iii) section headings are for convenience or reference only, and do not affect the meaning of this Agreement; and (iv) any agreement, instrument, statute, law, regulation or rule defined or referred to herein shall be deemed to mean such agreement, instrument, statute, law, regulation or rule as from time to time amended, modified or supplemented, and includes, in the case of agreements and instruments, references to all attachments thereto and instruments incorporated therein. Both Buyer and Seller are experienced in business and had the opportunity to have this Agreement reviewed by counsel. Accordingly, no provision in this Agreement may be construed against either Buyer or Seller as the drafting party.

l. Survival. To the extent that any provisions of this Agreement are meant to remain valid after this Agreement has terminated, expired or otherwise ended, such provisions have continued validity even after termination.

m. **CONSULTATION WITH COUNSEL. BUYER AND SELLER ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE BEFORE ENTERING INTO THIS AGREEMENT AND ARE DOING SO WITHOUT DURESS, INTIMIDATION, OR COERCION AND WITHOUT RELIANCE UPON ANY REPRESENTATIONS, WARRANTIES, OR COMMITMENTS OTHER THAN THOSE REPRESENTATIONS, WARRANTIES, OR COMMITMENTS SET FORTH IN THIS AGREEMENT.**

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n. **JURY TRIAL WAIVER. BUYER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF BUYER AND SELLER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT PERTAINING TO THIS AGREEMENT.**

*****End of Terms and Conditions of Sale*****

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