

NICHIDEN USA CORPORATION
TERMS AND CONDITIONS OF SALE

NICHIDEN USA CORPORATION ("Seller") offers to sell to Buyer ("Buyer") the Products and services ("Products") only upon the following terms and conditions:

1. **Purchase Orders.** All purchase orders of Buyer shall be in writing and shall set forth the quantity of Products desired, the specifications therefore, the desired delivery date, the price of each Product, and all information necessary to effectuate shipment of the Products by Seller. All purchase orders shall be subject to acceptance of these terms and conditions of sale, which constitute the sole and entire agreement of the parties with respect to the Products, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. No additional, inconsistent or contrary terms shall become part of these terms and conditions or any sale or provision of Products to Buyer, and Seller hereby objects to any such additional, inconsistent or contrary 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 and conditions of sale.

2. **Acceptance, Cancellation and Changes.** All purchase orders are subject to acceptance by Seller. Seller may accept any purchase order by return of a sales acknowledgment signed by Seller. Buyer may cancel any purchase order accepted by Seller, however, Buyer shall be obligated to pay Seller, within thirty (30) days of Buyer's cancellation of purchase order, any expenses or damages that Seller incurred as a result of such cancellation, at Seller's sole determination. Any changes to the purchase order must be agreed in a writing signed by both Seller and Buyer.

3. **Taxes.** All prices set forth are FCA Seller's place of business, unless otherwise specified on Seller's acknowledgment, invoice or any other document of Seller and are exclusive of federal, state, local and other excise, sales, use, property, transportation, occupational and other taxes relating to the Products now or hereafter imposed, together with any penalties and expenses, all of which shall be paid by Buyer. Buyer shall be responsible for collecting and/or paying any and all such taxes whether or not they are stated in any invoice and shall indemnify Seller with respect thereto. Seller, at its option, may at any time separately bill Buyer for any taxes not included in Seller's invoice, and Buyer shall pay said taxes.

4. **Delivery.** All shipments shall be FCA Seller or manufacturer's place of business unless otherwise specified on Seller's acknowledgment, invoice or any other document of Seller ("Seller's Order Document(s)"). All freight charges are stated on Seller's Order Document(s) and are part of Buyer's payment obligations. Risk of loss shall pass to Buyer at the FCA point. Seller does not guarantee time of delivery, and any dates or times provided are estimates only. Seller shall not be responsible or liable for any loss of income, profits, incidental, special and/or consequential damages resulting from Seller's delayed performance in shipment or delivery of the Products for any reason whatsoever. Seller reserves the right to make partial shipments, but will attempt to minimize such partial shipments and reserves the right to withhold shipments or require prepayment of any orders when warranted, in the opinion of Seller, including due to Buyer's payment record or financial condition. Such action shall not be construed as a breach or cancellation of any agreement by Seller. Seller shall not be liable for any non-delivery of Products unless Buyer gives written notice to Seller of the non-delivery immediately upon receipt thereof. Any liability of Seller for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or adjusting Seller's Order Document(s) with respect to such Products to reflect the actual quantity delivered.

5. **Inspection.** Buyer shall inspect and test the Products immediately upon receipt thereof. All claims for any alleged defect (limited to defects in workmanship and materials) in the Products or in Seller's performance which is capable of discovery upon reasonable inspection and testing, including, but not limited to, shortage in the quantity of Products delivered, shall be fully set forth in writing and delivered by Buyer to Seller within thirty (30) days of delivery of the Products to the Buyer. All claims which are not capable of discovery upon reasonable inspection and testing shall be delivered to Seller in writing within thirty (30) days after discovery, but in no event more than sixty (60) days after shipment of the Products. Failure to provide written notice of any such claim by the Buyer within the time periods set forth in this paragraph shall constitute a waiver of any such claims and shall be an absolute defense to liability of Seller or manufacturer in connection therewith. Except as explicitly provided otherwise hereunder, the remedies set forth in paragraph 6 shall be Buyer's sole and exclusive remedy and Seller's entire liability for any breach under this paragraph.

6. **Limited Warranty.** Seller warrants that Products sold to Buyer shall be free from defects in workmanship and materials for a period of sixty(60) days from the date of shipment. During the warranty period, if the Products should prove defective as determined by Seller, Seller shall have the right at its sole option to: (i) replace the Products; or (ii) refund the purchase price of the defective Products. Seller shall have the right to return of defective Products, transportation prepaid. SELLER'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF SELLER AND THE MANUFACTURER OF PRODUCTS AND THEIR PARENT, SUBSIDIARIES AND AFFILIATED COMPANIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR USE, WARRANTY OF TITLE OR WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY. IN NO EVENT SHALL SELLER, THE MANUFACTURER OF THE PRODUCTS, THEIR PARENT, SUBSIDIARIES AND AFFILIATED COMPANIES, BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFITS, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE NEGLIGENCE OF SELLER. IN ADDITION, THIS WARRANTY SHALL NOT APPLY TO ANY PRODUCTS OR PORTIONS THEREOF WHICH HAVE BEEN SUBJECT TO ABUSE, MISUSE, IMPROPER INSTALLATION, MAINTENANCE OR OPERATION, ELECTRICAL FAILURE, EXCESSIVE TEMPERATURES, OR ABNORMAL CONDITIONS, AND TO PRODUCTS WHICH HAVE BEEN TAMPERED WITH, ALTERED, MODIFIED, REPAIRED OR REWORKED BY ANYONE NOT APPROVED BY SELLER, OR PROBLEMS OR DEFECTS ARISING, IN WHOLE OR IN PART, FROM ANY SOLDERING, REFLOW, OR OTHER HEATING PROCESS TO WHICH BUYER MAY SUBJECT THE PRODUCTS IN EXCESS OF MANUFACTURING SPECIFICATIONS OR WHICH HAVE BEEN MANUFACTURED BASED ON BUYER'S SPECIFICATIONS, DESIGNS OR DRAWINGS. SELLER'S SOLE AND EXCLUSIVE LIABILITY (AND BUYER'S SOLE REMEDY) UNDER THIS WARRANTY SHALL BE, AT SELLER'S SOLE ELECTION, TO REPLACE OR RETURN THE PURCHASE PRICE

FOR ANY, DEFECTIVE PRODUCTS THEREOF. NO RUN-OFF, SAMPLE OR DEMO SHALL GIVE RISE TO A WARRANTY. No employee or agent of Seller (or any distributor, dealer or sales representative of Seller) has the authority to bind Seller to any representation or warranty concerning the Products. Unless such affirmation, representation or warranty is specifically included in these terms and conditions of sale, it shall in no way be binding upon the Seller or enforceable by the Buyer. THE TOTAL LIABILITY OF SELLER AND MANUFACTURER AND THEIR RESPECTIVE PARENT, SUBSIDIARIES AND AFFILIATED COMPANIES SHALL NOT EXCEED, UNDER ANY CIRCUMSTANCES, THE AMOUNT ACTUALLY PAID TO SELLER WITH RESPECT TO THE SPECIFIC PRODUCTS WHICH GIVE RISE TO THE CLAIM, LOSS OR DAMAGE, REGARDLESS OF THE NATURE OF THE DAMAGES, LOSSES OR THE LEGAL THEORY OR BASIS FOR LIABILITY.

7. **Invoices, Payments and Returns.** Individual invoices will be issued for each shipment. Unless otherwise specified in writing by Seller, payment by Buyer shall be made within thirty (30) days of the invoice date and is not subject to adjustment or set off for any reason. Payment shall be made in US Dollars. Purchase orders may be accepted subject to any credit terms imposed by Seller, including but not limited to, cash on delivery, in advance or due upon receipt. Seller reserves the right to charge interest at the rate of 1.5% per month (but not more than the maximum percentage permitted by law) on all balances not paid by Buyer within designated terms. Products may be returned to Seller only upon Seller's written authorization. Buyer shall prepay all shipping charges for the return of Products to Seller's designated service location. Seller may permit Buyer's non-warranty return, at Buyer's expense, of undamaged, standard Products within 30 days of purchase with Seller's prior authorization, subject to Seller's inspection of the Products. Only undamaged Products in good, clean, resalable condition and in original unbroken packages will be accepted for full credit. Returned Products will be subject to a restocking charge of fifteen percent (15%) of the total invoiced price of the Products or \$20.00, whichever is greater. If, in the judgment of Seller, the financial condition of Buyer at any time does not justify continuance of production or shipment upon the terms of payment specified herein, Seller may require full or partial payment in advance, and, in the event of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer, or in the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, Seller shall be entitled to cancel any order of Buyer then outstanding and shall receive reimbursement from Buyer for its cost to the date of cancellation, together with any and all attorneys' fees and costs incurred by Seller in enforcing its rights hereunder, all of which Seller may sue and recover from Buyer.

8. **Security Interest.** Buyer grants to Seller and Seller retains a continuing purchase money security interest in the Products sold and delivered by Seller to Buyer, whether presently in the possession of Buyer or hereafter acquired, and all spare parts and components, together with any and all proceeds of sale or other disposition of the Products, including, but not limited to, cash, accounts, contract rights and chattel paper. As a condition to the sale of the Products, upon request of Seller, Buyer shall as necessary join with Seller in executing one or more financing statements pursuant to the Uniform Commercial Code or its equivalent in force in Buyer's state or province in a form satisfactory to Seller to evidence Seller's security interest in the Products. Buyer shall keep the Products free from any adverse lien, security interest or encumbrance. In the event Buyer shall be in default under this sale, Seller shall have the remedies of a secured party under the Uniform Commercial Code or its equivalent in force in the state or province as provided for in these terms and conditions and where Buyer is organized and Seller may enter the Buyer's premises and remove the Products.

9. **Confidentiality.** All drawings, designs, specifications, manuals, programs and any other material and information furnished to Buyer by Seller shall remain confidential and Seller's or Manufacturer's proprietary property. All such information, except as may be found in the public domain, shall be held in strict confidence by Buyer and shall not be reproduced nor disclosed by Buyer to any third parties. Copyright in all materials made available by Seller shall remain Seller's at all times.

10. **Governing Law; Arbitration.**

(A) Except as provided in subparagraph (B) hereof, the parties agree that all disputes arising out of these terms and conditions of sale, the purchase or sale of Products and/or the relationship of the parties shall be resolved by arbitration administered by the American Arbitration Association ("AAA") at Chicago, Illinois under the AAA's Commercial Rules of Arbitration. The parties shall select a single arbitrator; provided that if the claim at issue is over \$500,000, the parties shall select a panel of three (3) arbitrators. The governing law of these terms and conditions of sale shall be the substantive law of the State of Illinois, without regard to its internal conflict of laws rules. The parties hereto agree to expressly exclude the application of the United Nations Convention on the International Sales of Goods. Any judgment upon any award rendered by the arbitrators may be entered in any court having appropriate jurisdiction. Except as provided in subparagraph (B) hereof, if any suit or proceeding is filed in any court, the court shall, on application of one of the parties, stay the action until such arbitration has been had in accordance with these terms and conditions of sale.

(B) The provisions of subparagraph (A) hereof to the contrary notwithstanding, Seller reserves the right to bring an action for equitable relief or replevin in an appropriate case, and the parties' agreement to arbitrate hereunder shall not stay or otherwise affect Seller's right to petition a court of competent jurisdiction for equitable relief in appropriate circumstances, or for the purpose of repossessing or replevining Products, provided, however, that all claims for money or money damages related thereto shall be referred to arbitration as aforesaid.

11. **Force Majeure.** Seller will not be liable for delays in production or delivery; including due to causes beyond its reasonable control, including, but not limited to, acts of God, fires, strikes, floods, quarantine restrictions, pandemics or epidemics, hurricanes, war, acts of terror, delays in transportation, storages and inability to obtain necessary labor, materials or manufacturing facilities. In no event will Seller be liable to Buyer for any damages whatsoever, including loss of use, lost profits, or other special or consequential damages resulting from delays or Seller's inability or failure to deliver Products.

12. **Miscellaneous.** These terms and conditions of sale constitute the entire agreement between Seller and Buyer and supersede any and all other written or verbal prior or contemporaneous agreements, quotations, negotiations or understandings between the parties.