

Terms and Conditions (Must Take)

GENERAL TERMS AND CONDITIONS OF BUSINESS

- 1. Scope of Application.** All shipments, services, sales, estimates, quotations, and order confirmations between East West Manufacturing, LLC and its affiliates ("East West Mfg.") and Customer are subject to these general terms and conditions of business (the "Terms and Conditions"). These Terms and Conditions shall govern all business transactions between East West Mfg. and Customer relating to the purchase and sale of all products ("Orders") manufactured by, or on behalf of, East West Mfg. in accordance with Customer's design specifications (the "Products"). Different or additional terms that may be proposed from time to time by Customer (including, but not limited to, those contained in any purchase orders submitted by Customer to East West Mfg.) are not binding upon East West Mfg., unless they are expressly confirmed by East West Mfg. in writing. Agreements, supplements, or understandings made by phone or orally that deviate from these Terms and Conditions are not binding upon either the East West Mfg. or the Customer unless they are expressly confirmed in writing by the party to be bound.
- 2. Acceptance of Orders.** All of East West Mfg.'s estimates or quotations are non-binding. All of Customer's statements of acceptance or purchase orders referring to any of East West Mfg.'s estimates or quotations are not binding on East West Mfg.; and notwithstanding any contrary provisions thereof, are to be construed and deemed to be Customer's offer to purchase the Products therein described from East West Mfg.. Such purchase orders, statements of acceptance, and offers to purchase Products become valid only through East West Mfg.'s written order confirmation to which these Terms and Conditions apply.
- 3. Prices.** The only binding prices are those in the Quotation provided by East West MFG. for this Order only, and the prices are based on such minimum order quantities, as indicated in the Quotation, and upon customer approval of final samples. The Product prices are denominated in United States Dollars and include costs of the manufacturing, assembly, and East West Mfg.'s inspection. Unless otherwise agreed upon in writing by the parties, the Products will be sold F.O.B., vessel (as defined in the International Chamber of Commerce's Incoterms 2000), at the port of shipment specified in the Quotation.
- 4. Terms of Payment.** Customer shall pay East West Mfg. for the Products as specified in the Quotation. Invoices for the Products are payable in the United States currency. Whenever East West Mfg., in its sole discretion, determines that Customer's ability to pay for the Products is in doubt, East West Mfg. may require payment obligations hereunder to be made by an irrevocable letter of credit confirmed by a bank having offices in the United States reasonably acceptable to East West Mfg. (the "Letter of Credit"). If Customer fails or refuses such different terms of payment, in addition to its other rights and remedies, East West Mfg. may, at East West Mfg.'s option, treat such failure or refusal as Customer's repudiation of any portion of the Order that has not been fully performed; and East West Mfg. may cancel such remaining balance of the Order, without any liability to Customer, by giving written notice of cancellation to Customer. In all events, time shall be of the essence with regard to Customer's payment obligations to East West Mfg. hereunder. Any amount not paid by Customer within thirty (30) days after being due shall accrue interest at the lower of one and one-half percent (1.5%) per month or the highest legal rate allowed under applicable law. The right of East West Mfg. to receive such interest payments shall be in addition to any other rights or remedies of East West Mfg. hereunder with respect to such nonpayment.
- 5. Title and Risk of Loss.** Unless otherwise agreed in writing by the parties, title of the products shall pass to Customer upon delivery of the Products by East West Mfg. (or East West Mfg.'s agent or representative) to the carrier at the shipping point. Customer shall, and East West Mfg. in its sole discretion may, inspect the Products, or cause them to be inspected, promptly after their arrival at Customer's port of destination. East West Manufacturing LLC has arranged to provide Insurance on this shipment under Ocean Cargo Policy No.: ZOC14N30153 with The Travelers Indemnity Company subject to all the terms, conditions and exclusions of said policy. Coverage provided is: Against all risks of direct physical loss or damage from any external cause, except those risks excluded by the Free from Capture and Seizure (F.C. & S.) and the Strikes, Riots and Civil Commotions (S.R. & C.C.) Warranties and/or other warranties or exclusions specified in this policy, unless covered elsewhere herein. AIMU War Risk Policy (December 2, 1993) AIMU Strikes, Riots and Civil Commotions (11A) (February 21, 2003) including Terrorism Risk Insurance Act.
- 6. Inventory/Must-Take Terms.** If East West Mfg. indicates on its Quotation that East West Mfg. agrees to hold all or part of the Products specified in its inventory until Customer requests its release from inventory and delivery to Customer, for a defined period of time, Customer agrees that at the end of the defined time period it must take any remaining inventory of Products covered by this Order. The defined, must-take time period begins on the date Products covered under this Order arrive at East West Mfg.'s warehouse location, and ends on the date equal to the date on which Products arrive at East West Mfg.'s warehouse plus the number of days (calendar days) indicated in the Quotation. At the end of the must-take time period, East West Mfg. may, at East West Mfg.'s option, arrange for shipment to Customer and/or invoice for remaining Products. Customer agrees to take delivery of and pay East West Mfg. (at prevailing payment terms of business between Customer and East West Mfg. if Customer is not in default and at payment terms determined at East West Mfg.'s sole discretion if customer is in default) for Products.
- 7. Regulatory Approvals.** It shall be East West Mfg.'s sole responsibility to obtain and maintain all pertinent customs and regulatory approvals or other authorizations required to export the Products from their country of origin. It shall be Customer's sole responsibility to obtain and maintain all pertinent customs and regulatory approvals or authorizations to import the same into Customer's chosen

county of destination for the Products. If requested in writing by Customer, East West Mfg. shall use its reasonable efforts to assist Customer in obtaining and maintaining such approvals, licenses, permits, and authorizations.

8. Design, Patents and Other Intellectual Property. As to the products manufactured by East West Mfg., Customer warrants that the product manufactured in accordance with the specifications supplied by Customer will not infringe of any patent of the United States or foreign jurisdiction. Customer will indemnify and hold harmless East West Mfg. against any losses including attorney fees and other costs of defense should East West Mfg. be required to defend a claim related to patent infringement or product failure due to design.

9. Taxes. Prices quoted by East West Mfg. for the Products do not include applicable sales, use, excise, and similar taxes which under applicable law are required to be paid as a result of the sale to Customer regardless of the party upon whom the obligation to pay is placed. Such taxes are not included in the Quotation.

10. Carrier and Routing. Unless the parties agree otherwise in writing, East West Mfg. shall have the right to select the carrier(s) and routing of shipment. Customer assumes all responsibility for payment for freight, and all costs associated therewith, which freight charges and other costs may not be reflected in the prices quoted by East West Mfg..

11. Defaults. If Customer should default in the fulfillment of any obligation or condition hereunder, and such default is not cured within 30 days after written notice from East West Mfg. specifying the nature of such default, then East West Mfg. shall have the right to terminate, without any liability to Customer, the remaining portion of the Order that has not been fully performed by giving written notice of termination to Customer. Such right of termination shall be in addition to, but not in lieu of, any other remedies that may be available to East West Mfg. at law or in equity.

12. Warranty. Customer acknowledges that Customer supplied East West Mfg. with the product design for the Products (the "Design"). East West Mfg. shall not be responsible for the quality of such Design, any defects in such Design, or any claims attributable to, arising out of, or pertaining to such Design.

East West Mfg. warrants to Customer only that the Products shall be free from defects in materials and workmanship for twelve (12) months after the date of East West Mfg.'s invoice. If within the applicable warranty period, Customer discovers any defects in the materials or workmanship of any of the Products and promptly notifies East West Mfg. in writing of such defects and returns the defective items to East West Mfg., East West Mfg. shall repair or replace the defective items, or, at East West Mfg.'s sole option, refund to Customer the purchase price for each defective item. This warranty shall not apply to any of the following: (a) Products that have been repaired or altered by anyone other than East West Mfg.; (b) Products having components purchased from anyone other than East West Mfg.; (c) Products that have been damaged by negligence or accident or by other circumstances beyond the reasonable control of East West Mfg.; or (d) Products that have been improperly operated, maintained, serviced, or stored, or that have been subjected to abnormal conditions of operation, maintenance, service, and storage not in conformity with Customer's written instructions concerning operation, maintenance, service, and storage. In no case whatsoever, including justified warranty claims, is Customer entitled to retain payments due, except upon the written consent of East West Mfg. with respect to undisputed claims.

THE FOREGOING LIMITED WARRANTY DOES NOT INCLUDE REIMBURSEMENT TO CUSTOMER FOR ITS COSTS AND EXPENSES OF TRANSPORTATION, FREIGHT, LABOR, REMOVAL, OR OTHER EXPENSES THAT MIGHT BE INCURRED IN CONNECTION WITH CUSTOMER'S RETURNING THE DEFECTIVE ITEMS TO EAST WEST MFG. OR IN CONNECTION WITH EAST WEST MFG.'S SENDING TO CUSTOMER ANY REPAIRED OR REPLACED ITEMS. IN NO EVENT SHALL EAST WEST MFG. OR EAST WEST MFG.'S EMPLOYEES OR REPRESENTATIVES BE LIABLE TO CUSTOMER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, CONTINGENT, EXEMPLARY, OR INCIDENTAL DAMAGES OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF PRODUCTION, DOWN TIME, OR BUSINESS INTERRUPTION), WHETHER CAUSED BY OR RELATED TO ANY DEFECTIVE PRODUCTS OR ARISING FROM THE FOREGOING WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL THEORY. IN ALL EVENTS, THE LIABILITY OF THE EAST WEST MFG., WHETHER BASED IN TORT, BREACH OF CONTRACT, BREACH OF WARRANTY, OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE DEFECTIVE PRODUCTS IN QUESTION OR WITH RESPECT TO WHICH SUCH BREACH, DEFAULT, OR NEGLIGENCE IS CLAIMED. CUSTOMER ACKNOWLEDGES THAT THE REMEDIES PROVIDED HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES.