



TERMS AND CONDITIONS FOR PRODUCT SALE

1. Product Sale Agreement. Subject to the terms of the *[applicable Purchase Order, Quote for Purchase, Order Acknowledgement or Service/Product Agreement (collectively "Agreement")]*₁, Customer agrees to purchase and *[Art's-Way Manufacturing Co., Inc.]* ("Art's-Way") agrees to deliver the Product₂ described in the Agreement to Customer. Except as otherwise defined herein, all capitalized terms shall have the meaning ascribed to them within the Agreement. A signature of a Customer or Customer's representative on the Agreement shall constitute valid and binding acceptance of Customer's acceptance of the Product order set forth in such Agreement.

2. Payment. Payment may be made by check, money order, credit card or wire transfer (all fees are borne by Customer). Except where restricted by law (California, Colorado, Connecticut, Florida, Kansas, Maine, Massachusetts, New York, Oklahoma, and Texas) a surcharge of 3% for credit card sales in excess of \$5,000 will be automatically assessed by Art's-Way. In the event Art's-Way has extended credit to Customer, and unless otherwise noted in the Agreement, terms of payment shall be net thirty (30) days from the date of invoice, without offset or deduction. On any past due invoice, Seller may impose interest at rate of one and a half percent (1.5%) per month. If Customer fails to make each payment when it is due, Art's-Way reserves the right to change or withdraw credit and thereby suspend or cancel performance under any or all Agreement(s) in which Art's-Way has extended credit to Customer.

3. Shipping. All pricing and amounts payable hereunder are on a F.C.A. shipping point basis from Art's-Way's facility in Armstrong, Iowa. Provided that Customer is current in its payments under the terms of the Agreement and is otherwise in compliance with the terms and conditions hereof, Art's-Way shall make the Product available for shipment to Customer according to the Shipment Schedule set forth in the Agreement. If requested by Customer, Art's-Way shall arrange for transportation to Customer of such Product on Customer's behalf. If Customer does not request that Art's-Way arrange for transportation, then Customer shall be solely responsible for arranging transportation and for the full cost of transportation of Product to Customer from Art's-Way's facility within fifteen (15) days of notification from Art's-Way to Customer that Product is ready for shipment. If Customer does not have Product shipped within fifteen (15) days of such notification, then Art's-Way may, at its sole option, arrange for shipment at Customer's sole cost and expense. Customer shall either fully ensure the Product being transported, or provide such insurance itself, in order to cover risk of loss or damage in transit. Art's-Way shall be named as an additional insured. Responsibility for loss or damage to the Product shall reside with Art's-Way until such Product is picked up from Art's-Way's manufacturing facility, at which point responsibility shall transfer to Customer.

4. Return Policy. An approved returned goods authorization (RGA) number must accompany every return. All returns are subject to a 25% restocking charge and freight charges are to be prepaid by Customer. Returned Product must be of current manufacture (produced in the last twelve months), unused, salable, and in original packaging. Any cost incurred by Art's-Way to put the Product in condition for resale will be charged to Customer in addition to the restocking fee. Art's-Way cannot accept discontinued, made to order, or custom-built Product as part of any return.

5. Cancellation. Cancellation of any Product on an order by Customer will be accepted by Art's-Way on the following basis only: Any items which upon Art's-Way's receipt of Buyer's written notice of cancellation are completed shall be paid for by Customer in full accordance with the regular payment terms. All items which are not complete upon Art's-Way's receipt of Customer's written notice of cancellation shall be cancelled for a termination charge of 15% of the net selling price.

6. Substitutions. Any Customer requested substitutions or changes to the Product order contained in an Agreement shall be approved by Art's-Way in writing in order to be effective. For each such substitution or change required by Customer and approved by Art's-Way, Art's-Way will charge Customer for all costs (\$100 minimum) necessary to make the change

or substitution. These costs include, but are not limited to, engineering, drafting, order processing, tooling, hardware, re-work and scrap. In addition, any increase in the Agreement price caused by a Product change or substitution will be charged to Customer and Customer agrees to pay the same.

¹ NTD: A broad definition of “Agreement” is used here. The broad definition could be maintained, if appropriate, or separate forms could be created for each business line in which the form would be used, and this definition could be updated to reference the proper name of the underlying sales record document.

² NTD: The defined term “Product” here assumes that such term is defined in the underlying sales record. Such terms, or underlying sales record, can be customized as needed to ensure the two documents contain the same terms.

7. Art's-Way Responsibilities.

(a) Completion, Installation and Commissioning. Art's-Way shall provide Customer's duly authorized engineering and construction contractor(s), agents and operational personnel with reasonable and general telephone call assistance not to exceed one total man hour, in an advisory capacity, regarding the commissioning of the Product on-site at Customer's facility; provided however, that Art's-Way shall not be responsible for installing the Product on site at Customer's Facility. Customer assumes full responsibility for the installation and start-up of the Product and for any loss or damage of whatever nature to persons or property, including all local laws and site condition permits. Customer shall pay for all reasonable costs of travel and lodging associated with Art's-Way's assistance.

(b) Customer Delay. Art's-Way shall not be liable for any delays directly or indirectly caused by Customer and/or any of its employees, contractors or vendors. Delay in delivery of any Product shall not relieve Customer of its obligation to accept remaining deliveries unless: (i) Art's-Way has failed to perform its material obligations under the Agreement; (ii) any material portion of the Product has not been made available for shipment within thirty (30) days of the last Shipment Schedule date. If Customer fails or refuses to accept delivery of any Product within four (4) days of the date that Art's-Way and Customer have agreed for delivery of any Product (provided that any such refusal or delay is not due to the action or failure to act of Art's-Way) then Art's-Way may store the Product at Customer's expense and risk in a warehouse on Art's-Way's (or its subcontractor's or agents) premises or at a location of Art's-Way's choosing and Customer shall immediately pay all handling, transportation and storage costs at the prevailing commercial rates upon submission of invoices thereof.

(c) Product Documentation. Art's-Way shall provide Customer with an operating manual, if applicable, for the Product. The operating manual will reflect the technical and operating specifications of the Product, safety procedures and the warranty procedures set forth and referenced herein.

(d) Maintenance; Parts; Additional Services. After commissioning of the Product, subject to the warranty provisions referenced herein, and in the event that Customer requests Art's-Way to provide technical or other assistance, and Art's-Way agrees to provide such additional services not covered in the Purchase Price herein, then Customer shall pay Art's-Way its then current rates per person on site, plus all reasonable travel (technician's hourly rate, plus airfare and the maximum IRS allowed mileage for vehicle travel) and lodging and meal expenses, considering the local. All replacement parts and other costs incidental to Art's-Way's provision of these services shall be billed separately according to Art's-Way's standard, then current price lists. Any such amounts shall be due and payable to Art's-Way on a net 30-day basis.

(e) Product Warranty. The Agreement, inclusive of these terms and conditions, include by reference Art's-Way's Limited Warranty Policy (the “Standard Warranty”), a copy of which is available at: artsway.com/resources/warranty

8. Limitation of Liability.

(a) No Consequential or Indirect Damages. IN NO EVENT SHALL ART'S-WAY OR ANY OF ITS EMPLOYEES, AGENTS, OFFICERS, MANAGERS, GOVERNORS, OWNERS, SUCCESSORS OR ASSIGNS BE LIABLE UNDER THE AGREEMENT TO CUSTOMER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, INCLUDING ANY DAMAGES

FOR BUSINESS INTERRUPTION, LOSS OF USE, DATA, REVENUE OR PROFIT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) **Maximum Liability.** Customer hereby waives any claims against Art's-Way and releases Art's-Way from liability to the Customer. IN NO EVENT SHALL ART'S-WAY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID TO ART'S-WAY PURSUANT TO THE APPLICABLE SCHEDULE 1 OF THE AGREEMENT. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF CUSTOMER'S REMEDIES UNDER THE AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. The prior sentence limiting liability and damages is a material part of the Agreement, and Art's-Way would not have sold the Product for the Purchase Price without Customer's agreement to limit Art's-Way's liability as provided above.

(c) **EXCLUSIVE REMEDY.** CUSTOMER'S SOLE REMEDY WITH RESPECT TO THE PRODUCT SHALL BE THE STANDARD WARRANTY, AND ART'S-WAY'S SOLE LIABILITY SHALL BE COMPLIANCE WITH THE STANDARD WARRANTY.

9. Indemnifications. Customer shall indemnify, defend and hold harmless Art's-Way, its officers, managers, governors, employees, agents, affiliates, successors and assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, that are incurred by Indemnified Party or otherwise awarded against the Indemnified Terms and Conditions for Product Sale – Page 3 Party, arising out of any claim alleging: (i) breach or non-fulfillment of any representation, warranty or covenant under the Agreement by Customer, its employees or agents; (ii) any negligent or more culpable act or omission of Customer, its employees or agents (including but not limited to reckless or willful misconduct) in connection with the performance of its obligations under the Agreement; (iii) bodily injury, death of any person or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of Customer, its employees or agents (including any reckless or willful misconduct; or (iv) any failure Customer to comply with any applicable federal, state or local laws, regulations or codes in the performance of its obligations under the Agreement.

10. Confidential Information and Intellectual Property. In addition to any confidentiality and/or non-disclosure agreement between the Parties, Customer acknowledges and agrees that the processes and/or equipment that it is purchasing from Art's-Way include valuable intellectual property, including but not limited to, patentable and unpatentable inventions, know how, confidential information and/or valuable Trade Secrets of Art's-Way (collectively, "**Art's-Way IP**"). As used herein, the term "**Trade Secrets**" shall mean all confidential and proprietary information disclosed by one Party to the other relating to the whole or any portion or phase of any scientific, technical or non-technical data, design, pattern, process, formula, device, method, technique, compilation, program, software, drawing, plans, component list, or operating manuals relating to the Product. Under the terms and conditions hereof, and except as otherwise limited herein, Art's-Way grants to Customer a royalty-free, limited, non-exclusive license to Customer to use the Art's-Way IP limited to use by Customer of the Product and for no other purpose. Customer expressly agrees, by acceptance of Product, that it shall keep confidential the Art's-Way IP as specified herein and use its commercially reasonable efforts to protect the Art's-Way IP unless Art's-Way notifies Customer in writing or a court determines (from which an appeal may not be taken) that such information is no longer confidential or a Trade Secret. The grant of this license to Customer shall continue to remain in full force and effect for so long as Customer continues to: (i) use the Product; and (ii) remains in compliance with the terms of the Agreement.

(a) **No Sub-Licensing.** Customer agrees that it shall not assign, sub-license, or in any way transfer Customer's license to the Art's-Way IP granted hereunder without the express, written approval of Art's-Way.

(b) No Modifications Without Consent. Other than in connection with the installation, repair, and commissioning (subject to the limitations in the Agreement) of the Product, Customer shall not modify any Product or processes purchased from Art's-Way without the express, written approval of Art's-Way, which Art's-Way may withhold at its sole discretion. Whether or not Art's-Way allows any modification of the Product or process, any and all such modification to the Product and/or process, regardless whether made by Customer or jointly with Art's-Way or a third-party, shall become the intellectual property of Art's-Way and, except with respects to such licensing and royalty-free rights and interests granted hereunder, Customer hereby assigns all its right, title and interest in and to such modifications to Art's-Way and agrees to cooperate with Art's-Way to execute all documents and take such actions as are necessary to evidence the transfer. This cooperation provision shall survive any termination or expiration of the Agreement.

(c) Replication and Reverse Engineering Prohibited. Customer shall not directly or indirectly attempt to replicate or reverse engineer (or assist any third-party in replicating or reverse engineering) any software, electronics, process or the Product purchased from Art's-Way and that it shall not seek to produce (or assist any third-party in producing) any similar or competing equipment or process that is based in whole or part on the Product or processes or based on concepts embodied in the Product or processes.

(d) Survival. This Section 6 shall survive for as long as Customer, and/or any successor in interest, owns and/or operates the Product plus five (5) years thereafter and five (5) years after any permitted transfer of ownership or complete cessation of operation.

(e) Equitable Relief. Customer recognizes that any breach of the terms of this Section 6 may give rise to irreparable harm for which money damages would not be an adequate remedy, and accordingly agrees that Art's-Way shall be entitled to enforce the terms of this Section 6 by a decree of specific performance without the necessity of proving the inadequacy as a remedy of money damages. If specific performance is elected as a remedy hereunder, such remedy shall be in addition to any other remedies available at law or equity.

11. Force Majeure. In the event that Art's-Way is unable to perform its obligations under the Agreement because of natural disaster, fire, strike, lightning, lockout, inability to obtain materials, delays of carriers or suppliers, action or decrees of governmental bodies or communication line failure not the fault of Art's-Way or like events, Art's-Way shall give notice to Customer and shall take reasonable efforts to resume performance. Upon receipt of such notice all obligations under the Agreement shall be suspended, all time periods automatically extended, and any applicable fees due abated for the period applicable to such force majeure.

12. Default. An event of default ("Event of Default") under the Agreement or these Terms and Conditions shall occur upon the occurrence of all or any one of the following events: (i) Customer does not pay any amount due to Art's-Way under the Agreement; Terms and Conditions for Product Sale – Page 5 (ii) Customer ceases doing business as a going concern; (iii) Customer makes an assignment for the benefit of its creditors or admits in writing to its inability to pay its debts as they become due; (iv) Customer files, or has filed against it, a petition in bankruptcy or for its reorganization, arrangement, composition or readjustment under any state insolvency law or Customer liquidates all or a substantial part of its assets not in the ordinary course of its business, dissolves or takes other similar action; or (v) Customer shall default in the performance of any of its obligations to Art's-Way arising under the Agreement, these Terms and Conditions, or any other agreement between Customer and Art's-Way and such default is not cured within fifteen (15) days of Art's-Way providing notice of same.

13. Remedies. Upon the occurrence of any Event of Default, Art's-Way may, at its option and without notice or demand, exercise all or any one of the following remedies: (i) declare immediately due and payable all invoices and all other sums due or to become due under the Agreement and any other agreement between Customer and Art's-Way, together attorneys' fees, court costs, other costs of collection and all applicable termination fees; (ii) terminate all of its obligations arising under the Agreement and any other agreement between Customer and Art's-Way; or (iii) exercise all other legal and equitable remedies which Art's-Way may have. The foregoing remedies shall be deemed cumulative and may be exercised

successively or concurrently. Customer agrees to pay all of Art's-Way's costs and expenses incurred in enforcement of the Agreement, including all attorney's fees, court costs and fees, and collection costs.

14. Assignment. Art's-Way may, in its sole discretion and without notice to or the consent of Customer, assign Art's-Way's rights and obligations under the Agreement, and may subcontract any portion of Art's-Way's performance of the Agreement to a third-party. Customer may not assign the Agreement or otherwise transfer its rights or obligations under the Agreement to any third-party without the prior written consent of Art's-Way.

15. General Provisions. The following sections of the Terms and Conditions shall survive termination or expiration of the Agreement: 2, 3, 4, 5, 7, 8, 9, 10 and 13. The relationship between the parties created by the Agreement is that of independent contractors and not partners, joint venturers, agents, or otherwise. No waiver by either Party of any breach of any provision of the Agreement or of any right in the Agreement shall be construed as a waiver of any continuing or succeeding breach of such provision or right. The Agreement (including all Schedules thereto and these Terms and Conditions): (i) are binding upon and inure to the benefit of Art's-Way and Customer and their respective successors, transferees, or assignees; and (ii) constitute the entire agreement between the Parties with respect to the subject matter of the Agreement, superseding all prior agreements, representations, communications and understandings, oral or written. A determination that any provision of the Agreement is invalid or unenforceable shall not affect the other provisions of the Agreement. The laws of the State of Iowa without regard to the conflicts of law provisions thereof govern the Agreement and its interpretation. The Agreement may not be amended or modified except by a written agreement signed by both Parties. In the event of a conflict between the main body of the Agreement and these Terms and Conditions, these Terms and Conditions will take precedence unless the Agreement specifically states otherwise. Except for the money due upon an open account, no action may be brought for any breach of the Agreement or these Terms and Conditions more than one (1) year after the accrual of such cause of action. These Terms and Conditions may be amended by Art's-Way from time to time without notice to or the consent of Customer.

* * * * *