

1. General. The acceptance of any offer, proposal or bid presented by BMA America, Inc. ("BMA America") to the customer ("Buyer") and any transactions between BMA America and the Buyer concerning good and services sold by BMA America (which collectively may be referred to as the "Products") shall be subject to and be governed exclusively by the following general terms and conditions of sale (along with any directly associated written specifications, quotations or order acknowledgments executed by an authorized representative of BMA America), notwithstanding anything to the contrary, including, without limitation, Buyer's purchase order, which may be set forth in any documents submitted by Buyer. No addition or modification to these terms and conditions will be binding upon BMA America unless and until specifically agreed to in writing signed by an authorized representative at BMA America's headquarters.

2. Agreement. There will be no contract between BMA America and the Buyer unless and until BMA America, in writing, confirms and accepts the Buyer's purchase order. BMA America's acceptance of Buyer's order will not be deemed to constitute an acceptance of any printed provisions on Buyer's order form which are inconsistent with, modify or in any way supplement these terms and conditions unless specifically any such provisions are approved in writing by BMA America as a modification of these General Terms and Conditions. No supplementary agreement between the parties will be binding on or enforceable against BMA America unless said agreement is accepted in writing by BMA America.

3. Quotations, Drawings and Descriptions. All illustrations, drawings, specifications and other material as well as all data and information contained in BMA America's general product documentation and price lists, whether in electronic or any other form, or otherwise furnished by BMA America, are given in good faith as being approximately correct, but are not binding in detail unless explicitly stated by BMA America to be so in writing. BMA America does not warrant the accuracy of any such information or its suitability for Buyer's purposes.

All of the materials furnished to Buyer and all technical and commercial information relating to the Product or its manufacture submitted by BMA America to the Buyer, prior or subsequent to the formation of the contract, shall remain the property of BMA America and shall not be used by Buyer for any other purpose than for which they were provided. The Buyer agrees that the material furnished to it by BMA America will not be copied, reproduced, transmitted or communicated by any person to a third person, without the prior written consent of BMA America. If no contract is formed as provided in Section 2 above, all illustrations, drawings, information and other written material furnished to Buyer and all copies of the same will be returned promptly upon BMA America's written request for same.

4. Payment. The purchase price shall be payable in U.S. Dollars without deduction or setoff of any kind. Unless otherwise specifically set forth in BMA America's proposal or acceptance of purchase order, the payment terms will be one third of the purchase price due upon acceptance of the purchase order and the remaining balance due upon delivery of the goods to the EX WORKS point. Charges for services are due upon presentation of invoices. BMA America may however require full payment in advance if it believes the financial condition of Buyer does not justify shipment or subsequent deliveries on the payment terms originally specified. If the Buyer becomes bankrupt or insolvent, or a proceeding is brought by or against Buyer under such laws, BMA America may cancel any outstanding order, and Buyer shall reimburse BMA America for its cancellation charges. BMA America reserves the right to ship and to make collection by sight draft.

Transfer of ownership and payment due terms shall occur upon notification by BMA America, Inc. to Buyer with notice via email, fax or telephone. An additional 1.5% compounded monthly of the total amount due (or the maximum permitted by law) will be assessed as a service charge on all invoices more than thirty (30) days past due until full payment is received. All costs of collection, including, without limitation, attorney fees shall be paid by Buyer. Buyer hereby grants to BMA America a purchase money security interest in the goods and in the proceeds thereof to secure payment of the purchase price. BMA America shall have the right to file financial statements with the appropriate public office. In the event of Buyer's default, BMA America may take any one or more actions permitted by law without prejudice to any other remedies BMA America might have, including, without limitation, (i) suspending all further performance under this Agreement, and (ii) availing itself of any remedies granted to a secured party under applicable law.

The price stated in BMA America's quotation and/or acknowledgment includes the cost of such packing, which, in the sole opinion of BMA America, will provide adequate protection for the Products during shipment. The cost of packing will not be refunded, if, for any reason, the packing is returned.

Any present or future government tax, fee, duty or charge on the sale, purchase, delivery or use of goods and/or services sold hereunder shall be paid by Buyer, in addition to the purchase price, unless otherwise agreed. Certain goods are subject to international export control regulations. Buyer shall be responsible for compliance with all regulations related to the export of goods to end-users.

The purchase price is subject to change at any time, without prior notice, (i) if change in governmental actions affect the landing cost of imported goods; or (ii) if any federal, state or local governmental action taking effect between the date of BMA America's acknowledgment of the purchase order and the date of delivery affects the cost of producing or providing the Product.

5. Shipment and Delivery. Unless otherwise stated in BMA America's quotation and/or acknowledgment, all goods will be delivered EX WORKS (EX WORKS in accordance with INCOTERMS in force) on and by the date mutually agreed upon by the parties. Partial delivery is permitted. Unless otherwise agreed in writing, delivery will be deemed complete and the risk of loss passes to Buyer when the goods are delivered to the carrier at the place(s) of business stated in BMA America's quotation and/or acknowledgment. Where the risk of loss has passed to Buyer, Buyer must obtain redress for freight losses, shortages or damages from the carrier or its insurer. BMA America is not responsible for any such losses.

Notwithstanding any provision of INCOTERMS or anything contained herein, equitable title and accession to the goods shall, where permitted by law, remain with BMA America until Buyer has paid in full. This shall be the case even if legal title to the goods shall be deemed by law to have passed to Buyer at the time of delivery and prior to performance of all of Buyer's obligations. Buyer shall grant, and by acceptance of the goods is deemed to have granted, to BMA America a first security interest in all goods to secure payment of amounts owed by Buyer. Buyer agrees to execute a financing statement at BMA America's request. BMA America may reclaim any good delivered or in transit if Buyer fails to make payment when due.

If delivery to a carrier is delayed due to the actions of Buyer, Buyer will be charged with all costs which BMA America incurs as a result of the delay including a reasonable profit on all such costs. In addition, the Buyer shall make any such payments

at such times that they would have become due had Buyer not caused the delay in performance or delivery.

If delivery to a carrier is at any time delayed more than thirty (30) days due to circumstances for which BMA America is solely responsible, then Buyer is entitled to liquidated damages from the date on which delivery to the carrier should have taken place, unless the circumstances prove that Buyer has not suffered any loss. The liquidated damages shall be payable for each completed week of delay at a rate of 0.5% of the value of the Products which cannot be used timely as a result of such delay but shall not in any event exceed 5% of the total purchase price.

The above stipulated liquidated damages are the only remedies available to Buyer in case of delay caused by the sole fault of BMA America. All other claims against BMA America based on such delay are hereby waived and released. Buyer shall not be entitled to cancel the order as a result of any delay in delivery of the goods.

6. Limitation of Warranty and Liability. BMA America warrants that the Products sold hereunder, under normal use for which Product is intended and service, shall be free from defects in workmanship and material for twelve (12) months from the date of shipment ("Warranty Period"). This Warranty Period is inclusive of any statutory warranty

This limited warranty is subject to the following exclusions:

a. Part repaired or replaced as a result of repair services are warranted to be free from defects in workmanship and material under normal use for ninety (90) days from the date of shipment.

b. BMA America's warranty does not extend to defects originating after the transfer of risk to Buyer; in particular, it does not cover defects that are caused by faulty operation, maintenance and storage, incorrect erection or faulty repair by Buyer, normal wear and tear or deterioration, overloading, accidents, unsuitable requisites for operation, defective foundation or unsuitable foundation soil, chemical, electro-chemical or electrical influences, effects of climatic and other natural phenomena.

c. BMA America does not provide any warranty on substitute equipment and components specified by Buyer or to products not of BMA America's or BMA America's affiliated companies' manufacture which are peripheral or not integrated into BMA America's goods. As to such products, BMA America will transfer to Buyer the warranty, if any, of BMA America's supplier.

d. Unless specifically authorized in a separate writing by BMA America, BMA America makes no warranty with respect to, and shall have no liability in connection with, goods which are incorporated into other products or equipment, or which are modified by any person other than BMA America.

The foregoing is IN LIEU OF all other warranties and is subject to the LIMITATIONS stated herein. **BMA AMERICA MAKES NO OTHER EXPRESS, STATUTORY OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

TO THE EXTENT PERMITTED BY LAW, THE EXCLUSIVE REMEDY OF THE BUYER OR USER, AND THE LIMIT OF BMA AMERICA'S LIABILITY FOR ANY AND ALL LOSSES, INJURIES, OR DAMAGES CONCERNING THE GOODS (INCLUDING CLAIMS BASED ON CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) SHALL BE, AT THE OPTION OF BMA AMERICA, THE REPAIR OR REPLACEMENT

OF THE GOODS OR THE RETURN OF THE DEFECTIVE PART TO BMA AMERICA AND THE REFUND OF A RATABLE PORTION OF THE PURCHASE PRICE. IN NO EVENT SHALL BMA AMERICA BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES. BMA AMERICA SHALL NOT BE RESPONSIBLE FOR INSTALLATION, DISMANTLING OR REINSTALLATION COSTS OR CHARGES. In no event shall any recover of any kind against BMA America be greater in amount than the purchase price of the specific goods sold.

No action, regardless of form, may be brought against BMA America more than twelve (12) months after a cause of action has accrued. Any Products returned under warranty to BMA America shall be at Buyer's risk of loss, and, in the event warranty work is required, will be returned, if at all, at BMA America's risk of loss.

Buyer and all users are deemed to have accepted this LIMITATION OF WARRANTY AND LIABILITY, which contains the complete and exclusive limited warranty of BMA America. This LIMITATION OF WARRANTY AND LIABILITY may not be amended, modified or its terms waived, except by writing signed by an Officer of BMA America.

Buyer shall inspect goods delivered or repairs performed within fifteen (15) business days from the date of receipt of the goods or completion of the repairs. Within that time, Buyer shall send BMA America a written notice specifying any respects in which the goods or repairs are nonconforming. Failure to send a written notice shall constitute a waiver of Buyer's claims for any nonconformity that an inspection, whether or not in fact carried out, would have discovered. Buyer is deemed to have accepted delivered goods on terms set forth herein, unless within fifteen (15) business days of receipt of the goods Buyer sends a written notice of rejection that provides detailed grounds for rejection.

Buyer shall without undue delay notify BMA America in writing of any defect of products which appears within the Warranty Period, specifying the nature thereof. If Buyer fails to notify BMA America in writing within the Warranty Period, Buyer shall have no claim based upon warranty.

Buyer shall return, where applicable, all goods claimed to be defective to BMA America with transportation prepaid. If, upon examination by BMA America, the defect is covered by this limited warranty, BMA America shall, in addition to repair or replacement, pay transportation charges both ways. Labor and travel expenses incurred in responding to a warranty claim will be paid by Buyer in accordance with BMA America's then current rates.

7. Change Order. Changes to purchase orders requested by Buyer, including those affecting the identity, scope and delivery time of the Products, must be submitted in writing and are subject to BMA America's review for adjustment to price, scheduling and other affected terms and conditions. Upon mutual agreement as to any price or delivery change, Buyer shall issue a written change order, which shall not be binding on BMA America until signed by BMA America. BMA America reserves the right to reject any proposed change that it deems technically inadvisable or inconsistent with established engineering or quality guidelines and standards, or incompatible with BMA America's design or manufacturing capabilities.

8. Order Cancellation. No order may be canceled or altered by Buyer except on terms and conditions accepted in writing by BMA America. BMA America may impose reasonable cancellation charges. Goods may not be returned for credit unless approved in writing in advance by BMA America. A restocking charge will be applied, including reimbursement for direct costs and

allowances for disruption as may be determined by BMA America. Cancellation charges associated with orders for Products specifically manufactured to Buyer's specification may equal the actual selling price of the Products.

9. Installation. BMA America is not responsible for installing the Products unless BMA America and the Buyer otherwise agree in writing. Should BMA America have agreed in writing to undertake installation of the Products, BMA America's obligation will be limited to installation in a workmanlike manner. If BMA America furnishes Buyer with a

device or other assistance which concerns any Products supplied hereunder or any system or equipment in which such Products may be installed and which is not required pursuant to this Agreement, such advice will be accepted by Buyer at its own risk and Buyer releases BMA America from any claim or liability arising from the provision or use of such advice, whether the claim or liability is based upon contract, warranty, tort (including negligence), or otherwise.

10. Intellectual Property. If the Products sold incorporate software or firmware containing software, Buyer will not receive title or rights of ownership to such software but will receive a license to use one copy of the software, subject to terms issued by BMA America separately from these general terms and conditions of sale.

Buyer acknowledges and agrees that any such software is proprietary and constitutes a trade secret, copyright or patent of BMA America's or of third parties.

The Buyer shall have no right to copy (except for backup), modify, reverse engineer or compile, license others, transfer or disclose to any third party, all or part of the software.

Should use of the Products by Buyer infringe any patent, copyright or other similar third party intellectual property right in Buyer's country, BMA America shall, as Buyer's sole and exclusive remedy for any deficiencies in title, indemnify Buyer against any legally enforceable claims of any such holders of third party intellectual property rights.

BMA America's liability shall apply only if (i) Buyer promptly notifies BMA America of any such claim and resulting suit or proceeding in writing, (ii) Buyer gives BMA America the sole right to defend or control the defense of the suit or proceeding, including settlement or extrajudicial resolution, (iii) Buyer provides all necessary information and assistance for that defense, and (iv) the infringement of third party intellectual property rights is not based on any instructions given by Buyer.

Furthermore, BMA America does not incur any obligations vis-à-vis Buyer should the Products be used in a way not stipulated in the purchase agreement/contract or should Buyer have modified the design of the Products, its assemblies or parts without proper authority.

11. Insurance and Indemnity. BMA America shall maintain commercial general liability insurance and, if requested by Buyer, will provide a Certificate of Insurance confirming such coverage. To the extent BMA America recovers under the insurance policies maintained in accordance with the foregoing, BMA America will indemnify and hold harmless Buyer against claims or damages arising out of its performance hereunder. THIS WILL BE THE FULL EXTENT OF BMA AMERICA'S LIABILITY FOR DIRECT DAMAGES.

If the goods sold are manufactured to Buyer's specifications, or if the goods are used in conjunction with products not supplied by BMA America, then Buyer shall indemnify and hold BMA America harmless from and against any suits, claims, losses, expenses, and other liabilities, including, without limitation, costs and attorney's fees, whether for loss, personal injury, infringement or otherwise, which result from Buyer's specifications or use of product not furnished by BMA America. Product or equipment furnished to BMA America by Buyer shall be at Buyer's sole risk and expense.

12. Force Majeure. In no event will BMA America be liable for any loss, damage or delay suffered by Buyer arising out of BMA America's failure to perform its obligations hereunder, when such failure is directly or indirectly caused by or arises from causes beyond its reasonable control, including, but not limited to the following circumstances: industrial disputes, strikes and lockouts, riots, fires, floods, earthquakes, tempest or other acts of God, war, extensive military mobilization, insurrection, requisition, seizure, epidemics, embargo, civil commotion, terrorist attack, governmental regulation, shortage of labor, fuel, power, materials or supplies, defects and delays in deliveries by sub-contractors caused by any such circumstance referred to in this Section.

13. Miscellaneous. All permits, licenses or authorizations necessary for the installation or use of the Products will be obtained by Buyer at its sole cost and expense.

No right or obligation under this Agreement will be assigned without prior written consent of BMA America which consent may be withheld in BMA America's sole discretion.

Should any single provision or subparagraph of these terms and conditions be deemed invalid, the balance of the agreement will remain binding and enforceable in accordance with its terms and conditions.

14. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXPRESS OR IMPLIED, IN ANY AGREEMENT OR THE PROVISIONS OF APPLICABLE LAW, IN NO EVENT, WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL BMA AMERICA, INC., OR BMA AMERICA'S PARENT OR AFFILIATED COMPANIES BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURIES OF ANY NATURE, INCLUDING BUT NOT LIMITED TO PLANT DOWN TIME, INCREASED COST OF PRODUCTION, LOSSES IN PRODUCTION, LOSS OF PROFITS, LOSS OF DATA, LOSS OF THE USE OF EQUIPMENT OR ANY OTHER COMMERCIAL LOSS.

15. Disputes and Applicable Law. BMA America may bring an action for nonpayment before any judicial court of competent jurisdiction without need for arbitration. In addition, any controversy or claim arising out of or relating to this contract, or the breach thereof, which cannot be so resolved by negotiation or mediation, shall be finally settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect at the time of the dispute by one or more arbitrators appointed in accordance with such rules. The language for the arbitration shall be English. Venue for any arbitration proceedings shall lie exclusively in Weld County, Colorado and the award shall be enforceable in any court having jurisdiction in accordance with the laws of Colorado. These procedures are the exclusive procedures for the resolution of all such disputes between the parties.

This Agreement and all disputes arising thereunder will be governed by and interpreted in accordance with the internal laws of the State of Colorado, U.S.A. The rights and obligations of the parties hereunder shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.