

## STANDARD TERMS AND CONDITIONS OF SALE

(8/22/18)

### 1. SCOPE

The terms and conditions of sale (“Terms”) contained herein shall apply to all proposals, quotations and offers made by, purchase orders received by and/or invoices submitted by Advics North America, Inc. (“Seller”) for the sale of products (“Products”). Any additional or different terms, including but not limited to those on Buyer’s purchase order, confirmation or other forms, are hereby objected to and rejected by Seller. Seller’s failure to object to provisions contained in any communication from Buyer that differ from these terms shall not be deemed an acceptance of such provisions or a waiver of these Terms. If, and to the extent that, these Terms conflict with any terms affixed to any confirmation, purchase or procurement document issued by Buyer, these Terms shall prevail irrespective of whether Buyer accepts these conditions by a written acknowledgement, by implication, or acceptance and payment of goods ordered hereunder. SELLER’S QUOTATIONS ARE EXPRESSLY MADE CONDITIONAL ON BUYER’S ASSENT TO THE TERMS SET FORTH BELOW WHICH REPRESENT THE SOLE AND EXCLUSIVE TERMS AND CONDITIONS UPON WHICH SELLER OFFERS TO SELL PRODUCTS TO BUYER. Any changes in these Terms must specifically be agreed to in writing signed by Seller’s authorized representative before becoming binding on Seller.

### 2. PAYMENT AND DELIVERY TERMS

- a. Prices for the Products are as specified on Seller’s quotation or proposal, or as otherwise mutually agreed in writing. All prices are in USD and firm for thirty (30) days from the date of the quotation or proposal; thereafter, they are subject to change, and Buyer should inquire as to their validity and request written confirmation or revision. Unless expressly stated in a quotation or proposal, Seller’s price for Products sold more than 30 days after the date of such quotation or proposal shall be subject to change.
- b. Payment terms are as quoted by Seller or specified on Seller’s invoice or as otherwise agreed by the parties in writing. Buyer shall not be entitled to deduct, counterclaim or set off against the price of Products, or against any other amount owing under these Terms including under any invoice, any claim or alleged claim arising out of these Terms or any other transaction with Seller. Maximum interest rate permitted by applicable law shall be due and paid by Buyer for each month payment is overdue. Seller shall have the right to stop delivery if Buyer is in arrears with payment. Buyer shall be liable for all costs of collection, suit, and reasonable attorneys’ fees. Seller may at any time terminate Buyer’s open account credit without advance notice.
- c. Where a shipping/delivery date is specified by Seller, that date reflects Seller’s best estimate for the probable time required for completion of Buyer’s order, based on Seller’s then-current capacity and scheduling. All shipping dates are approximate and shall be computed from the date of entry of the order on Seller’s books.
- d. Products shall be packaged and labeled in accordance with standard labeling of Seller. Identification of all packages shall be with the standard labels of Seller. Identification of all packages shall be with the Seller’s part number. Special packaging or labeling shall be an additional charge to Buyer.

### 3. TAXES

Prices are exclusive of any other amount including without limitation fees for export, customs duties, tariffs, special packaging, transportation, insurance and all federal, state and local charges, fees and excise, sales, use and other taxes. Any such amount including taxes, fees or charges imposed by any governmental authority on, or measured by, the transaction between Seller and Buyer will be paid by Buyer in addition to the price specified herein. If Buyer is exempt from any such amount, Buyer must provide Seller with a valid written form of exemption or signed purchase order marked “For Resale”.

### 4. CANCELLATION BY BUYER

- a. If Buyer cancels shipment of any order or a portion of any order or reschedules without prior agreement by Seller, any order or a portion of any order, 100% of the invoice charges shall apply and be assessed against Buyer unless otherwise agreed to in writing by Seller’s authorized representative.
- b. If Buyer fails, with or without cause, to furnish Seller with instructions for, or refuses to accept deliveries of, any of the Products sold under these Terms, or is otherwise in default under or repudiates all or any part of these Terms or any other agreement with Seller, or advises Seller that it will default in the performance of any of its obligations, or fails to pay when due any invoice or any other agreement with Seller, or if any action is started by or against Buyer seeking the appointment of a trustee or receiver or the entry of an order for debtor’s relief for Buyer, then, in addition to any and all remedies allowed by law, Seller, without notice: (1) may bill and declare due and payable all undelivered Products, (2) may cease performance of its obligations and defer shipment until such default, breach or repudiation is removed, (3) may cancel any undelivered portions of the Products with Buyer in whole or in part, and/or (4) may recover Products in transit or delivered, retrieve delivered Products, repossess all Products which may be stored by Seller for Buyer’s account and otherwise enforce its remedies for Buyer’s default. Buyer shall remain liable for all damages suffered or incurred by Seller in any such circumstances. Seller shall be awarded incidental damages including, without limitation, reasonable profits and costs such as actual attorneys’ fees in any proceeding to enforce its remedies in which it obtains relief for damages or injunctive relief. All rights granted to Seller in these Terms and by law are cumulative, provided Seller shall be entitled to only a single full recovery.

### 5. ACCEPTANCE

Products are deemed accepted by Buyer unless Buyer notifies Seller in writing of product shortages, damage, or defect within ten (10) days of delivery of each shipment as evidenced by signed waybill, bill of lading, or receipt by Buyer’s employee or agent. Buyer’s failure to notify Seller in writing of nonconforming Product within such period shall be deemed an unqualified acceptance.

### 6. RETURNS

No return from Buyer of product will be accepted without Buyer first obtaining a Return Material Authorization (RMA) issued by Seller. Seller may, at its sole discretion, refuse to issue an RMA for return of the Products and if Seller chooses to take back the Products, Seller may require Buyer to pay a restocking fee.

### 7. PRODUCT WARRANTY; LIMITATION OF WARRANTY; REMEDIES FOR BREACH OF WARRANTY

- a. Products which are purchased by Seller from other manufacturers and which are resold by Seller hereunder without alteration or change shall only have the warranty furnished by said manufacturer, which, to the extent possible, Seller passes on to Buyer. Buyer acknowledges that except as specifically set forth or referenced in this paragraph or as expressly written in Seller’s quotation, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY SELLER OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR OTHERWISE. SELLER ASSUMES NO RESPONSIBILITY OR LIABILITY FOR MANUFACTURER’S PRODUCT SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO SELLER BY OR ON BEHALF OF BUYER. Use of the Buyer’s part number on this document or on any Products is for convenience only and does not constitute any representation by Seller with respect to the performance specifications, or fitness of any part for any purpose. Buyer acknowledges and agrees that Products sold by Seller are not intended for and will not be used in life support systems, human implantation, nuclear facilities or systems, or any other application where product failure could lead to loss of life or catastrophic property damage. Buyer takes sole responsibility and indemnifies and holds Seller harmless from all damages and costs arising out of any such use or sale.

b. This warranty is conditioned upon (i) installation, maintenance and normal use in conformity with instructions furnished by Seller from time to time, if any, and (ii) shall not apply to any Products which have been subject to misuse including, without limitation, neglect, accidents, improper assembly, improper storage modification, or which have been soldered repeatedly which, in the judgement of Seller, adversely affects the condition or operation of the Products. This warranty shall not cover defects arising from designs which do not adhere to accepted industry design rules or artwork, either received by or generated by Seller, which are found to be incorrect due to incompleteness, incorrect revision level, ambiguity, or any other reason. Seller does not warrant that it or the Products are in compliance with any industry standards, guidelines, or procedures, or with the requirements of any safety or environmental code or regulation of any federal, state, municipality or other jurisdiction unless otherwise specifically provided in the quotation. This warranty is intended solely for the benefit of Buyer. All claims hereunder shall be made by Buyer and may not be made by Buyer's customers. Buyer agrees not to extend to its customers any Product warranty that is different from the Product warranty provided herein.

c. Buyer's exclusive remedy, if any, under this warranty is limited, at Seller's sole election, to any one of: (a) refund of Buyer's purchase price for Products found to be defective, (b) repair by manufacturer of any Products found to be defective, or (c) replacement of any Product found to be defective, provided that (i) Seller has received written notice within ten (10) days of Buyer's receipt of such Products with an explanation of such alleged defect (ii) after Seller's written authorization to do so under a RMA, Buyer has returned the nonconforming product per Seller's instructions, freight prepaid, and (iii) Seller's examination of such Products shall disclose to Seller's satisfaction that such Products fail to conform to the manufacturer's warranty, if any. Seller shall not be liable under the foregoing exclusive remedy for any value added costs such as component costs, assembly, and/or testing.

## **8. LIMITATION OF WARRANTY; LIMITS OF LIABILITY; INDEMNIFICATION**

a. THE FOREGOING LIMITED WARRANTIES AND REMEDIES ARE EXCLUSIVE AND ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR SELLER ANY OTHER WARRANTY OR LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION OR USE OF PRODUCTS AND SELLER MAKES NO WARRANTY WHATSOEVER FOR PRODUCTS NOT MANUFACTURED BY SELLER. SELLER SHALL NOT BE LIABLE FOR DAMAGES DUE TO DELAYS IN DELIVERIES OR USE. NOTWITHSTANDING ANYTHING SET FORTH IN THESE TERMS AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL SELLER HAVE ANY LIABILITY OR OBLIGATION TO BUYER OR ANY OTHER THIRD PARTY FOR ANY CLAIM, LOSS, DAMAGE, OR EXPENSE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE INADEQUACY OF ANY PRODUCTS FOR ANY PURPOSE, BY ANY DEFICIENCY OR DEFECT IN ANY PRODUCT (WHETHER OR NOT COVERED BY ANY WARRANTY), BY THE USE OR PERFORMANCE OF ANY PRODUCTS. IN NO EVENT IS SELLER LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LIABILITY, CLAIMS, OBLIGATIONS, DAMAGES, COSTS, OR EXPENSES, INCLUDING WITHOUT LIMITATION, ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS, BUSINESS LOSSES, OVERHEAD, PERSONAL PROPERTY DAMAGE, PERSONAL INJURY, AND DEATH) ARISING OUT OF OR RELATING TO THE SALE OF PRODUCTS BY SELLER TO BUYER, RESALE OR SUBSEQUENT USE OF GOODS, AND BUYER AGREES TO INDEMNIFY SELLER FOR THE SAME. SELLER'S AGGREGATE LIABILITY FOR ANY DAMAGES OR CLAIMS ARISING OUT OF OR RELATING IN ANY WAY TO THESE TERMS OR ANY PRODUCTS SUPPLIED OR TO BE SUPPLIED UNDER THESE TERMS SHALL IN NO EVENT EXCEED THE AMOUNT BUYER PAID FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM OR DAMAGES. Buyer waives any causes of action or theories of liability including, but not limited to, those arising under contract, tort, strict liability, product liability, statutes or otherwise, except as specifically provided by the UCC as modified and limited herein. Buyer further waives any right of implied contractual or common law indemnity against Seller for any claim, including, but not limited to, liability for claims for damages to person or property arising out of the use of Products sold to Buyer under these Terms.

b. Buyer shall indemnify, defend and hold harmless Seller, and Seller's parent, subsidiary and affiliate companies, and their respective shareholders, officers, directors, employees, representatives and agents (collectively, "Indemnified Parties"), from and against any damages, expense or liability (including attorneys' fees) from claims of unfair competition or infringement or contributory infringement of any intellectual property rights, including, without limitation, patents, trademarks or copyrights, related to Products sold hereunder arising from: (i) Seller's compliance with Buyer's designs, specifications or instructions, (ii) use of any Product in combination with products not supplied by Seller, or (iii) use of any product in connection with a manufacturing or other process.

c. Buyer shall indemnify, defend and hold harmless Indemnified Parties, from and against any and all third party claims, damages and expenses (including attorneys' fees) under theories of tort, product liability, negligence (ordinary or gross), warranty, contract, statute or otherwise arising out of the use, storage, sale, processing or other disposition of the Products, supplies or materials used in connection with the Products or parts manufactured with the Products if (1) the action or inaction of Buyer or its employees, customers or agents, or Buyer's design specifications, were a material or proximate cause of injuries or damages giving rise to claims against Seller, and/or (2) the claim asserted is inconsistent with the limitation of warranties, limitation of liability, and/or limitation of remedies provisions set forth in these Terms.

d. Any proceeding by the Buyer for breach of these Terms or any other right against Seller arising from or in connection with payment by Buyer cannot be filed or maintained unless: (i) it is commenced within one (1) year after the cause for action has accrued; (ii) Buyer has given timely written notice to Seller of its claim as provided herein; and (iii) Buyer deposits any unpaid portion of the purchase price for Products with the tribunal pending final adjudication. An action shall accrue no later than shipment of the Products. Any discrepancy in Seller's pricing or other charges shall be deemed waived by Buyer unless Buyer notifies Seller thereof, in writing, within sixty (60) days from the date of the invoice on which such disputed transaction is reflected.

## **9. TRADEMARKS**

Buyer hereby acknowledges that the "Advics" trademark or any other trademarks applied to the Products or used by Seller in connection with the Products or other products similar thereto are the sole and exclusive property of Seller. Buyer may use Seller's trademarks, trade names, and logos only in connection with activity undertaken as part of Buyer's performance under these Terms.

## **10. CONFIDENTIAL INFORMATION**

No information shall be deemed to be given or received in confidence by either party unless and only to the extent it is covered by a separate written agreement.

## **11. INSTALLATION AND TECHNICAL ADVICE AND DATA**

Buyer is solely responsible for the installation and operation of Products sold hereunder, including without limitation, obtaining all permits, licenses, or certificates required for the installation or use thereof. Any technical advice offered or given in connection with the use of any Products is solely an accommodation to Buyer, and Seller disclaims any warranty and is not liable or responsible whatsoever for the content of use of that advice. Without Seller's prior written consent, Buyer shall not use, duplicate, or disclose any technical data delivered or disclosed to Buyer for any purpose other than for installation, operation, maintenance or use of the Products purchased by Buyer from Seller. Buyer acknowledges and agrees it has not relied on the skill or judgment of Seller in connection with any and all uses, installations, selections and/or operation of the Products.

## **12. FORCE MAJEURE**

Neither party to this contract shall be responsible or liable to the other party or to any third party for any damages, including without limitation, incidental and consequential damages, arising out of, nonperformance or delay in performance of the terms and conditions herein due to acts of God, nature, wars, riots, strikes, fires, epidemic, strikes,

labor disputes, unavailability of suitable and sufficient labor, materials, capacity or technical or yield failures and any unforeseen event beyond its control. The anticipated delivery date shall be deemed extended for a period of time equal to the time lost due to any delay excusable under this provision. Seller shall be entitled to an extension of time for commercially reasonable delays. Seller shall also have the right, to the extent necessary in Seller's reasonable judgment, to apportion fairly, among itself and its various customers in such manner as Seller may consider equitable, Products then available for delivery. This section shall be effective even as to circumstances which exist at the time of quotation or as of the date of the agreement to these Terms.

### **13. ASSIGNMENT**

Buyer shall not assign this contract or any interest herein or any rights hereunder without the prior written consent of Seller, and any purported assignment without such consent shall be void.

### **14. COMPLIANCE WITH LAWS, ETHICAL PRACTICES**

Buyer hereby certifies and warrants on its own behalf as well as on behalf of any person or entity under its direction or control, including any party with which it has contractual relations ("Buyer" as referred to in this paragraph), that it shall comply with all applicable governmental laws, regulations, and orders in the resale and purchase of any product sold hereunder. Buyer will not export or re-export such product except in full compliance with all applicable laws and regulations. Buyer acknowledges it is solely responsible for complying with all U.S. Export Administration laws, rules and regulations. Buyer certifies that it is not on the U.S. Commerce Department's Denied Party or Entity List or the Unverified Parties List and agrees that it will not sell or distribute any product sold hereunder to any party on such lists. Buyer agrees and warrants that in performing its obligations under these Terms, it will not take any action rendering Seller liable for violation of the United States Foreign Corrupt Practices Act, which prohibits offering, giving, or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party, or instrumentality of these organizations, in order to assist it or Seller in obtaining or retaining business. Buyer will indemnify and hold Seller harmless from all fees, fines, or other damages imposed on or suffered by Seller due to Buyer's failure to comply with this section.

### **15. GENERAL**

a. This contract constitutes the entire agreement between the parties and supersedes all prior agreements and understanding between them relating to the subject matter hereunder and no modifications of this contract shall be binding on either party unless it is in writing and signed by both parties.

b. Waiver by, or failure of, Seller to exercise in any respect any right provided for herein shall not be later deemed a waiver nor prevent Seller from strictly enforcing any right hereunder at a later time. No waiver by Seller of any provision of this contract shall be effective unless made in writing. No waiver by Seller of any breach of any provision of this contract shall constitute a waiver of any subsequent breach of the same or of any other provision of this contract.

c. Buyer and Seller agree that this contract is made and entered into in the State of Michigan, and shall be governed by, subject to, and construed in accordance with the laws of the State of Michigan without reference to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed.

d. The arbitration provisions of this Section 15 will be governed by the United States Federal Arbitration Act. At Seller's option, exercised by written notice any time before or within 30 days following the service of process in a legal action, any dispute regarding the Products, the Order, the validity of the Order or any of these Terms, or any other matter between the parties (other than requests for injunctive relief) will be resolved by binding arbitration, conducted in the English language, as follows: (i) the arbitration will be conducted under the commercial arbitration rules of the American Arbitration Association (AAA) and under Rules 26 through 37 of the U.S. Federal Rules of Civil Procedure, in a location agreed by the parties; (ii) if the parties cannot agree on a location within thirty (30) days of either party's request for arbitration, the arbitration will be conducted in Oakland County, Michigan, and (iii) the arbitrator will be selected from an AAA list using the AAA-recommended selection method. Each party will bear equally the costs and expenses of AAA and the arbitrator, and each party will bear its own costs and expenses -- provided, however, (1) that the failure by one party to pay its share of the arbitration fees constitutes a waiver of such party's claim or defense in the arbitration, and (2) that the arbitrator may award attorneys' fees and costs to the substantially prevailing party. In no event will any party be awarded punitive or exemplary damages. All arbitration proceedings shall be confidential, except to the extent that disclosure is necessary to enforce an arbitration award in a court of competent jurisdiction or is required by Seller's customer(s). The arbitration award shall be final and binding upon the parties, and enforceable in any court of competent jurisdiction.

e. Section headings are for convenience only and shall not be considered in the interpretation of this contract.

f. The provision of this contract are severable. If any one or more such provisions are judicially determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions or portions of this contract shall nevertheless be binding on and be enforceable by and between the parties.