

1. **Acceptance, Complete Agreement.** All products or services furnished by any Atkore subsidiary (each a "Seller") to any buyer ("Buyer") are subject to these Terms and Conditions of Sale ("Terms"). Atkore is acting solely as billing agent for each Seller. These Terms and any accompanying quotation, confirmation of sale or invoice constitute the parties' entire agreement and may not be altered or modified except in a writing signed by each party, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such 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. Any different or additional terms or conditions furnished by Buyer are rejected and are not applicable to the sale or shipment of the products. In the event of conflict between Seller's quotation and these Terms, the former will govern. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. Trade custom, trade usage and past performance are superseded by these Terms and will not be used to interpret these Terms. Buyer's order will be binding on Seller only with regard to products shipped pursuant to Buyer's order or accepted in writing by Seller. Seller's failure to object to provisions contained in any purchase order, installation contract, or other communication from Buyer (including, without limitation, penalty clauses of any kind) will not be construed as a waiver of these conditions nor as an acceptance of any such provisions furnished by Buyer.

2. **Delivery and Title.** Delivery dates are estimates only and are not guaranteed. Time is not of the essence with respect to Seller's obligation to meet delivery requirements. Seller will use commercially reasonable efforts to make shipments as scheduled and may make partial shipments. Seller reserves the right to under or over ship by 10% of quantities ordered. All deliveries are F.O.B. shipping point and title to the products and risk of loss passes to Buyer on delivery to the carrier selected by Seller. Buyer agrees to accept the carrier of Seller's selection. Seller's shipment of the products is subject to Seller's approval of Buyer's credit rating. Seller may withhold shipment of products pending receipt of amounts due Seller or security for payment of amounts to become due to Seller as a result of the shipment of products. Products will be delivered in accordance with the tolerances and variations generally permitted in Seller's industry with respect to the quality of the products. A shipment will be deemed acceptable if the quantity of such shipment falls within 10% of the quantity specified, and the excess or deficiency will be charged or credited to Buyer proportionately. Seller reserves the right to ship in minimum quantities and standard packaging and to increase ordered quantities to such minimums.

3. **Inspection.** Buyer must inspect all shipments before unloading. If visible damage or shifting of the lading is detected in a rail shipment, Buyer must notify Seller in writing within 24 hours. If visible damage or shilling of the lading or shortages is detected in a motor carrier shipment, Buyer must note the damage or shortage on the carrier's copy of the delivery receipt and notify Seller in writing within 24 hours. If the damage or shortage is not ascertainable on arrival, Buyer must notify Seller in writing of any Nonconforming Goods within 10 days of receipt of shipment and furnishes such written evidence or other documentation as reasonably required by Seller. Failure to give such notice will constitute unqualified acceptance and a waiver of all such claims by Buyer against Seller. All claims for loss and damage in transit must be made by Buyer to the carrier. "Nonconforming Goods" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents. If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to Seller's designated facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point. Buyer acknowledges and agrees that the remedies set forth in this Section 3 are Buyer's exclusive remedies for the delivery of Nonconforming Goods. All sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement without Seller's prior written approval.

4. **Prices and Taxes.** Buyer shall purchase the Goods from Seller at the prices set forth on the applicable quotation or as set forth in Seller's published price list in force as of the date Seller accepts Buyer's purchase order. All quotations will remain in effect for 5 calendar days unless sooner terminated by notice to Buyer. Prices quoted are subject to change without notice to Seller's prices in effect at the time of shipment; if the Prices should be increased by Seller before delivery of the Goods to a carrier for shipment, then these Terms shall be construed as if the increased Prices were originally inserted herein, and Buyer shall be billed on the basis of such increased prices. All products may be combined in any proportion to meet weight requirements. All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes. Buyers with a valid state sales tax-exemption certificate must provide a copy of the certificate prior to payment, or taxes will be collected on purchases. If Buyer is purchasing from more than one Seller a separate tax exemption certificate is required for each.

5. **Payment.** Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice unless otherwise stated on Buyer's quotation or acknowledgment of purchase order. If credit has not been established Seller reserves the right to require payment, or the issuance of an irrevocable letter of credit, in advance of shipment. Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods or performance of any Services if Buyer fails to pay any amounts when due hereunder and such failure continues for 30 days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise. If progress payments are required and are not paid when due, the entire contract price will become due and payable on demand or, at Seller's option, Seller may defer delivery or terminate the contract. If contract performance extends more than one calendar month, progress payments will be required and final payment will be made as designated by Seller. Seller reserves a purchase money security interest in each product shipped, which will be satisfied by payment in full. Seller has the right to file a copy of this document as a financing statement.

6. **Termination.** Buyer's order will be deemed a representation that Buyer is solvent and able to pay for the products ordered. If Buyer fails to make payments when due, if bankruptcy or insolvency proceedings are instituted by or against Buyer, if Buyer makes an assignment for the benefit of creditors, or if Buyer breaches any of these Terms, Buyer will be deemed to be in default and Seller will have the right to terminate its obligations by written notice without liability to Buyer or to any third party. Such termination will not affect Buyer's obligation to pay for products delivered and works in progress.

7. **Returns and Cancellation.** Seller reserves the right to discontinue the manufacture of, or change or modify the design and/or construction of, the products sold pursuant to these Terms without incurring any obligation to Buyer except a refund for monies previously paid for products that are discontinued or modified. No products may be returned without Seller's prior written approval, which may be withheld in Seller's sole discretion. If accepted, all products must be returned in saleable condition and Buyer must pay a handling charge, transportation charges and any costs incurred by Seller to place returned products in saleable condition (if not returned in saleable condition). Upon Seller's request, Buyer must return to Seller all products for which a refund is made. Orders placed with and accepted by Seller may not be canceled or modified except upon Seller's written consent prior to shipment and Buyer's acceptance of Seller's cancellation and modification charges. Special or non-standard orders are not subject to cancellation or modification except on Seller's specified terms.

8. **Warranties. (A)** Seller warrants to Buyer that for a period of 12 months from the date of shipment of the Goods ("Warranty Period"), that such Goods will materially conform to Seller's published specifications in effect as of the date of manufacture and will be free from material defects in material and workmanship. No warranty is given for products or components that have been (i) subject to misuse, improper installation, improper storage, corrosion, or negligence; (ii) disassembled, modified or repaired by unauthorized persons; or (iii) used in any manner contrary to Seller's instructions or recommendations. **SELLER DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY THAT THE PRODUCTS WILL CONFORM TO ANY SAMPLES, ANY WARRANTY THAT THE PRODUCTS WILL NOT DISCOLOR OR THE TEXTURE OR FINISH WILL NOT CORRODE OR DETERIORATE, AND ANY WARRANTY REGARDING ANY ANCILLARY SERVICES RENDERED. (B)** Products manufactured by a third party ("Third Party Product") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 8(A). For the avoidance of doubt, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY; (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (iii) WARRANTY OF TITLE; OR (iv) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. **(C)** The Seller shall not be liable for a breach of the warranties set forth herein unless: (i) Buyer gives written notice of the defective Goods or Services, as the case may be, reasonably described, to Seller within 30 days of the time when Buyer discovers or ought to have discovered the defect; (ii) if applicable, Seller is given a reasonable opportunity after receiving the notice of breach of the warranty to examine such Goods and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there;

and (iii) Seller reasonably verifies Buyer's claim that the Goods or Services are defective. Seller's liability will terminate upon expiration of the notice period. Seller's sole liability for non-conforming products will be to repair or replace the non-conforming product or return the purchase price paid therefore, at Seller's sole option. Buyer will bear all disassembly, shipment and reinstallation costs of repaired or replaced products. **THE REMEDIES SET FORTH HEREIN SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN SECTION 8(A).**

9. **Limitation of Liability.** In no event shall Seller's aggregate liability arising out of or related to this agreement, whether arising out of or related to breach of contract, tort (including negligence), or otherwise, exceed the total of the amounts paid to seller for the goods sold hereunder. **IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

10. **Indemnity.** Buyer agrees to indemnify, defend and hold harmless Seller, its agents, representatives, employees, officers, affiliates, successors, assigns and customers against any third party claim and damages arising out of: (a) patent infringement arising from compliance with Buyer's designs, specifications or instructions; (b) any injury (including death) to any person or damage to any property in connection with any act or omission of Buyer, its agents, employees, or subcontractors; and (c) any pollution, contamination, or other loss or damage to the environment or natural resources arising in connection with any products or services ordered by Buyer and provided by Seller, regardless of cause, including without limitation Seller's negligence, strict liability, or other act or omission and will pay all attorney's fees, costs and expenses of every nature incurred in such defense. Buyer agrees to maintain Worker's Compensation and Comprehensive General Liability insurance, including property damage coverage, as required by Seller and will provide insurance certificates upon request.

11. **Seller Drawings.** Any drawings submitted by Seller are only to show the general style, arrangement, and approximate dimensions of the products offered and no work will be based on drawings unless the drawings are certified. In no event will manufacturing or proprietary drawings be supplied.

12. **Tooling.** All tooling, dies, jigs and similar items supplied by or paid for by the Buyer will be held by the Seller as security for the payment in full of the Buyer's account. In the event of the Buyer's failure to settle its account in full within terms, for whatever reason, the Seller may dispose of the Buyer's tooling, dies, jigs and similar items as it sees fit. Without limiting the generality of the above, failure to settle in full shall include failure to settle by reason of bankruptcy or insolvency. Disposal shall include, without limiting the generality of the above, the right of the Seller to appropriate for its own use and crediting the Buyer's account with the value of the tools, dies, jigs and similar items. The Seller shall be the sole judge of value and its judgment shall be fair and equitable.

13. **Compliance with Law.** Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. If the products ordered will be exported from the United States, the quoted shipping dates are subject to receipt of all export documents and authorizations. Regardless of the ultimate destination, the prices quoted are based on packing for domestic shipment unless otherwise stated in writing. Buyer agrees to provide Seller in writing the ultimate destination and identity of the end-user prior to shipment if the products are to be exported. All products must be exported from the United States in accordance with applicable export laws and regulations. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods. If the products are for resale or ultimate use by the U.S. Government, Seller shall comply with the applicable provisions of the Federal Acquisition Regulations pertaining to Equal Opportunity and Affirmative Action, Executive Order 11246 and any other applicable laws, rules and regulations.

14. **Waiver, Amendment and Modification.** No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.

15. **Confidentiality.** Buyer agrees that all technical, business, financial and other confidential or proprietary information provided by Seller is confidential and may not be disclosed without Seller's prior written consent. Buyer (a) must use its best efforts (but in any event not less than those employed for safeguarding its own proprietary information, provided those efforts are reasonable) to keep such information confidential; (b) will not, except as specifically authorized in writing by Seller communicate the confidential information, or any knowledge that it is imparted through examining or working with such confidential information, to any third party or any employee, agent, or consultant of Buyer, unless such employee, agent, or consultant reasonably requires access to the confidential information and has undertaken an obligation to maintain its confidentiality; and (c) will not use the confidential information (i) to compete directly or indirectly with Seller; (ii) for its own account or purpose; (iii) to interfere with any actual and/or proposed business of Seller; or (iv) for any purpose other than the purchase of the products. Nothing in these Terms will restrict the use of information available to the general public.

16. **Force Majeure.** The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion, or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage. In the event of such delay, the completion date will be extended for a period equal to the time of such delay. Seller may terminate any contract without liability by written notice to Buyer if a delay in delivery or performance resulting from the foregoing events will continue for at least 60 days or if the manufacture or sale of goods is or becomes technically or economically impractical.

17. **Buyer's Acts or Omissions.** If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

18. **Assignment.** Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

19. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

20. **Governing Law and Jurisdiction.** All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of Ontario, Canada without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the Province of Ontario. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the courts of the country of Canada or the courts of the province of Ontario, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

21. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the sales confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

22. **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

