



Amiad U.S.A., Inc.

Terms and Conditions of Sale

1. Applicability: Entire Agreement

- 1.1 Except as specifically described herein, these terms and conditions of sale (these "Terms") are the only terms which shall govern the sale of the goods identified on Buyer's purchase order (the "Goods") by Amiad U.S.A., Inc. (the "Seller") to the buyer (the "Buyer"). These Terms relate only to the extent of Amiad, Arkal, Filtomat, and PEP products. For avoidance of doubt, these Terms do not apply to the "Tequatic" product line which follows a separate agreement and are specifically excluded herein. By placing a purchase order, Buyer makes an offer to purchase the Goods pursuant to these Terms, as well as only the following terms included in Buyer's purchase order: (a) a list of the Goods to be purchased; (b) the quantity of each of the Goods ordered; (c) the requested delivery date; (d) the unit Price for each of the Goods to be purchased; (e) the billing address; and (f) the delivery location (together, the "Basic Purchase Order Terms"), and on no other terms.
- 1.2 Acceptance of Buyer's purchase order shall occur by Seller issuing its standard form sales order confirmation ("Sales Confirmation") to Buyer with these Terms specifically incorporated by reference. The Sales Confirmation and any attachments to the Sales Confirmation made by Seller (such as Buyer's design specifications, requirements, and drawings, if any), the Basic Purchase Order Terms, and these Terms (collectively, this "Agreement") comprise the entire agreement between the parties, 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 its proposed terms and Seller's acceptance of any offer from Buyer regarding the Goods and/or Services is expressly made conditioned on Buyer's acceptance of any additional or different terms set forth in these Terms. Fulfillment or sales confirmation 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. In case of any discrepancies between the above stated documents, the following order of precedent shall apply: (1) these terms; (2) Sales Confirmation; and (3) Basic Purchase Order Terms.
- 1.3 Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail over these terms to the extent they are inconsistent with these Terms.

2. Buyer and Seller Responsibilities

- 2.1 Buyer shall be responsible for correctly specifying and advising Seller of its requirements for the Goods, including, where applicable, design specifications, and Buyer shall be responsible for any discrepancies, errors or omissions in drawings, documentation or other information supplied in writing by it, if any, or between such documents and any of the other documents forming part of this Agreement. Buyer agrees that the design specifications and requirements described in Buyer's documents delivered to Seller correctly represent Buyer's requirements for the Goods as advised to Seller, and acknowledges that Seller's supply of the Goods will be based on such design specification and requirements.
- 2.2 It is Buyer's sole responsibility to ensure that the site in which the Goods are to be installed (the "Site") is safe and suitable for the installation and operation of the Goods or performance of any associated Services. When requested by the Buyer and appropriate, and at Buyer's cost, Seller shall, prior to delivery of the Goods, inspect the Site to confirm that it is suitable for the installation and operation of the Goods and, if Seller performs such inspection and determines that any aspect of the Site is not suitable for the installation and operation of the Goods, Seller shall provide Buyer with such information in writing and such reasonable assistance as may be necessary to enable Buyer, at its own cost, to prepare the Site so that it is suitable for the installation and operation of the Goods.
- 2.3 Buyer shall allow the authorized personnel of Seller access to the Site during normal working hours for the purpose of performing its obligations under this Agreement.
- 2.4 If Seller is performing installation, oversight or commissioning Services and, in the reasonable opinion of Seller, it is necessary to remove or disconnect any existing equipment of Buyer in order to install or commission the Goods, Seller shall give Buyer reasonable prior notice of such requirements and Buyer shall provide Seller, at Buyer's cost, with such assistance as is reasonably necessary to facilitate such removal or disconnection.

- 2.5 Standard terms of sale include a set of operating instructions in Seller's standard format. If additional sets or alternative formats are required, such operating instructions are available at an additional charge. Upon receipt of request for additional sets, a price quotation will be forwarded.

3 Delivery

- 3.1 Unless the Seller and Buyer agree in writing otherwise, all shipments are ExWorks Seller's Factory. The risk of loss of Goods, in the event of a breach or otherwise, passes to the Buyer upon Seller making the Goods available to Buyer or Buyer's carrier at Seller's Factory (the "Shipment Point"). The Buyer shall provide Seller with the exact address of the place of delivery. Loading and transportation charges when made freight prepaid by Seller will be charged on the invoice as freight and handling. Loading and transportation charges in all other cases will be paid by the Buyer directly to the carrier. At Buyer's request, Seller will, at Buyer's risk and expense, arrange for the loading and delivery of the Goods to Buyer's site/facility and Buyer will pay, or reimburse Seller, for all loading and freight charges, taxes, duties, entry fees, brokers' fees, insurance and all other ancillary charges and special packaging charges incurred.
- 3.2 The Goods will be delivered within a reasonable time after the receipt of the Sale Confirmation, subject to availability of finished Goods. The delivery and/or shipping schedule is the best estimate possible based on conditions existing at the time of Seller's Sales Confirmation or Seller's quotation and receipt of all specifications, as applicable, and in the case of non-standard items, any such date is subject to Seller's receipt of complete information necessary for design and manufacture. Seller shall not be liable for any delays, loss or damage in transit or for any other direct, indirect, or consequential damages due to delays, including without limitation, loss of use or profits.
- 3.3 Seller may, in its sole discretion, without liability or penalty, deliver partial shipments of Goods to Buyer and ship the Goods as they become available, in advance of the quoted delivery date. If the Goods are delivered in installments, then insofar as each shipment is subject to the same Agreement, the Agreement will be treated as a single contract and not severable.
- 3.4 If for any reason Buyer fails to accept delivery of any of the Goods or if Seller is unable to deliver the Goods at the Seller's Shipment Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) title and risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

- 4 **Title and Risk of Loss:** Title and risk of loss passes to Buyer upon the earlier of (i) delivery of the Goods at the Seller's Shipment Point or (ii) deemed delivery pursuant to clause 3.4 above. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a first priority lien and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. In connection with the same, Buyer hereby authorizes Seller to record (and Buyer will execute if requested) any financing statement or other documentation for perfection of Seller's security interest to be filed by Seller under the Uniform Commercial Code or other applicable law in all jurisdictions necessary to perfect, preserve, and protect the security interest granted hereinabove. The aforementioned lien and security interest shall terminate only upon Seller's receipt of full and irrevocable payment for the Goods, provided however, such lien and security interest shall be automatically reinstated if Seller is required to return or otherwise disgorge any portion of the Purchase Price for the Goods due to applicable laws, including but not limited to any voluntary or involuntary proceeding against Buyer under federal, state, or foreign bankruptcy or insolvency laws.

5 Non-delivery

- 5.1 The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's Shipment Point is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.
- 5.2 Seller shall not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within 10 days of the date when the Goods would in the ordinary course of events have been received.
- 5.3 Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice with respect to such Goods to reflect the actual quantity delivered.

- 6 **Shortages:** Shortage claims will not be considered unless made in writing within 10 days of the Buyer's receipt of the goods. Freight shortage or damage claims must be filed with the carrier.

7 **Returns:** All return requests, other than requests pursuant to Non-Standard Products (see section 12 below) or those made under Seller’s Limited Warranty (see section 14 below) must be made within **30 days** from shipment (the “Return Window”) and must be approved by Seller in writing. All written approvals will include the issuance of a Returned Goods Authorization Number. The Returned Goods Authorization Number must be clearly marked on the outside of all cartons containing returned Goods. All approved returns not caused by Seller’s error will be subject to handling and restocking charges based on conditions below and must be returned in new, clean, resalable condition with freight prepaid. Goods not returned under these conditions will be assessed additional fees up to full value of Buyer’s Purchase Price to bring Goods and packaging back to sellable condition. Seller will deduct the amount of all proper approved returns from the invoice or account of Buyer, less any transportation, restocking and/or handling charges. Seller will refuse and return to the Buyer any Goods returned to Seller without prior written approval and a valid Return Goods Authorization Number clearly marked on each carton. Goods returned to the Buyer for failure to observe this policy shall remain the Buyer’s responsibility.

A restocking fee is a percentage of the item’s price, depending on the type of item and the condition in which it is returned. The percentage of restocking fee is based on the guidelines outlined in the table below.

<i>Return request</i>	<i>Restocking fee</i>
<i>The Buyer changes its mind* about a purchase and returns an item in the original condition within the Return Window and places a new order of similar material and/or value.</i>	<i>None</i>
<i>The Buyer changes its mind* and returns an item in the original condition within the Return Window with no fault of the Seller and no new order is placed.</i>	<i>Yes. Up to 20% of item’s price.</i>
<i>The Buyer changes its mind* about a purchase and returns it after the Return Window and Seller accepts return after the Return Window</i>	<i>Yes. Up to 50% of item’s price.</i>
<i>The Buyer returns an item it received within the Return Window under conditions where the item received is materially different from what Buyer ordered.</i>	<i>None.</i>

**The Buyer returns the item for one of the following reasons: Accidental order/Better Price Available/No longer needed or wanted*

8 **Services:** Seller will provide such services as are expressly described in the Sales Confirmation (the “Services”), during Seller’s normal business hours, unless otherwise specified in the Sales Confirmation. Services requested or required by Buyer outside of these hours or in addition to the quoted or agreed upon Services will be charged at Seller’s then current schedule of rates, including overtime charges, if applicable, and will be in addition to the charges outlined in the Sales Confirmation.

9 **Purchase Price:** The price for the Goods and/or Services thereof shall be Seller’s quoted price. Seller may also at any time assess a fuel or other applicable surcharge (in addition to the price of the Goods) (the “Purchase Price”). The Purchase Price is based on the project schedule defined in the Agreement. Notwithstanding anything to the contrary set out herein, in the event of any delay to Seller’s delivery schedule caused by Buyer or its representatives (other than for Force Majeure or delays caused by Seller), including without limitation, suspensions or delays with Buyer’s work or project associated with the Goods, any unapproved or approved postponement of the delivery date, or Buyer’s failure to timely issue any notice of commencement or similar document, then the Purchase Price shall increase by 1% for every month or partial month of such delay and this Agreement shall be construed as if the increased Purchase Price as adjusted were originally inserted herein, and Buyer shall be invoiced or re-invoiced by Seller on the basis of such increased Purchase Price.

10 **Taxes:** The Purchase Price is exclusive of any applicable federal, state or local sales, use, excise or other similar taxes, including, without limitation, value added tax, goods and services tax or other similar tax imposed by any governmental authority on any amounts payable by Buyer. All such taxes will be for Buyer's account and will be paid by Buyer to Seller upon submission of Seller's invoices. Buyer agrees to timely make before delinquency all tax accruals and payments to all applicable tax authorities as appropriate. If Buyer is exempt from any applicable sales tax or equivalent, but fails to notify Seller of such exemption or fails to furnish its Sales Tax Exemption Number to Seller in a timely manner and Seller pays such tax, the amount of any such payment made by Seller will be promptly reimbursed by Buyer to Seller upon submission of Seller's invoices.

11 Payment

- 11.1 Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Buyer shall make all payments hereunder by EFT, wire transfer, check, or credit card and in US dollars. Payment for foreign billing shall be in accordance with Seller's written instructions. Unless payment is made by an irrevocable letter of credit in a form acceptable to the Seller, Buyer shall secure the payment for Goods by providing other appropriate security for payment acceptable to the Seller in its sole discretion.
- 11.2 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 portion of the Purchase Price not timely paid, including, without limitation, reasonable attorneys' fees and costs of collection. In addition to all other remedies available under these Terms or under law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend performance of any Agreement, or suspend the delivery of any Goods, if Buyer fails to pay any amounts when due hereunder and such failure continues for 5 days following written notice thereof. Additionally, Seller may require payment in cash, security or other adequate assurance satisfactory to Seller when, in Seller's opinion, the financial condition of Buyer or other grounds for insecurity warrant such action.
- 11.3 All sales are subject to the approval of Seller's credit department. If Seller's credit department does not approve Buyer's purchase order, Seller may cancel Buyer's purchase order or the Agreement upon written notice to Buyer unless Buyer arranges for prepayment of the Goods or collateral security satisfactory to Seller.
- 11.4 Buyer may not withhold or setoff any amounts that may be claimed by Buyer against any amounts that are due and payable to Seller by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.
- 11.5 If this Agreement provides for installment payments, payments will be made per the following schedule (each a "Payment Milestone"):
- (a) 20% of the Purchase Price upon earlier of (i) Seller being awarded project or (ii) delivery to Seller of the Purchase Order or (iii) the Sales Confirmation.
 - (b) 30% of the Purchase Price upon first submittal of drawings by Seller.
 - (c) 40% of the Purchase Price upon earlier of (i) date of shipment by Seller of the Goods or (ii) date of Seller's notice that the Goods are ready for shipment by Seller ("Equipment Completion").
 - (d) The remaining balance of the Purchase Price upon the earlier of (i) first usable effluent being produced by the Goods, or (ii) 30 days from shipment of the Goods.
- 11.6 In the event that achievement of a particular Payment Milestone is delayed or suspended due to the Buyer's convenience or other reasons for which the Buyer or its representatives is responsible, such Payment Milestone will be deemed to have occurred and Seller shall be entitled to invoice Buyer as if achievement of such Payment Milestone had been achieved. In such circumstances, Buyer must notify Seller in writing of the reasons for the delay and anticipated duration of the delay. Seller will mark the Goods (or parts thereof) as the Buyer's property and shall store the Goods (or parts thereof) in a segregated area until actual delivery at Buyer's cost.
- 12 **Non-Standard Goods:** Non-standard, special order or custom-made Goods ("Non-standard Goods") by definition for the purposes of the Seller are those products that require or meet at a least one of the following attributes as determined by Seller in its discretion: (i) a submittal package to be sent to the Buyer for approval, (ii) engineering and design, (iii) not off-the-shelf, and/or (iv) order quantities that are excessive over the Seller's normal sales volume as determined by the Seller. **Notwithstanding anything to the contrary set forth in these Terms, Goods subject to the aforementioned definition, as determined by Seller, are not subject to cancellation or return once the order has been placed by the Buyer unless approved by Seller in writing. If cancellation or return is approved by Seller for Non-standard Goods, Buyer acknowledges and agrees that the terms and conditions of Section 13 below shall apply.** The Buyer shall be responsible for all costs the Seller has incurred on any non-standard, special order, or custom order that is cancelled up to the full value of the Buyer's Purchase Price as set forth in Section 13. All Non-standard Goods that require a submittal package to be provided by the Seller to the Buyer will require a submittal package approval from the Buyer. Only until the Buyer approves the submittal package to Seller in writing will the Seller start production and procurement of the Buyer's order, and the Seller's estimated lead time valued in weeks will begin from the date the approval of submittal is actually received.

- 13 **Cancellation:** Buyer may cancel the Agreement for Standard Goods orders only prior to shipment and subject to reimbursement of the Seller for all out of pocket costs. Buyer may not cancel the Agreement for Non-Standard Goods as set forth in Section 12 after Sales Confirmation unless such cancellation is approved in writing by Seller (which approval may be withheld in Seller’s sole discretion) and subject to Buyer’s agreement to pay a stated amount of cancellation charges plus reimbursement of any other out of pocket costs incurred by Seller. Unless otherwise agreed to in writing by Seller, the cancellation charges for Non-Standard Goods shall be as follows

<i>Termination Charge</i>	<i>Milestone</i>
25% of the Purchase Price	after Sales Confirmation and Seller’s ordering of any materials for fabrication
50% of the Purchase Price	after ordering materials, commencement of any engineering and/or design, but prior to starting fabrication
75% of the Purchase Price	after starting fabrication, but prior to completion of Goods
100% of the Purchase Price	after completion of the Goods

14 **Limited Warranty**

- 14.1 **Limited Warranty for Goods:** Seller warrants to Buyer that for a period of twelve months (12) from the date of installation of the Goods or eighteen months (18) from the date of delivery of the Goods, including deemed delivery pursuant to clauses 3.4 and 11.6 above (the "Warranty Period"), whichever comes first, that the Goods manufactured by Seller, when properly installed and maintained, and operated at ratings, specifications and design conditions specified by Seller, will materially conform to Seller’s specifications for such Goods set forth in Seller’s proposal, or, in the absence of such a proposal, such specifications as have been provided by Buyer to Seller and accepted in writing by Seller and included in the Sales Confirmation, at the time of the order and will be free from material defects in material and workmanship (this "Limited Warranty"). Buyer shall notify Seller promptly in writing of any claims within the Warranty Period and provide Seller with an opportunity to inspect and test the Goods claimed to fail to meet this Limited Warranty. Buyer shall provide Seller with a copy of the original invoice for the Goods, and prepay all freight charges to return any Goods to Seller's factory, or other facility designated by Seller. All claims must be accompanied by full details, including system operating conditions, if applicable. If the defects are of such type and nature as to be covered by this Limited Warranty, Seller shall, at its option and in its sole discretion, either: (a) accept return of the defective Goods and furnish replacement Goods; (b) furnish replacement parts for the defective Goods; (c) repair the defective Goods; or (d) accept return of the defective Goods and return payments made, or issue credits for, such defective Goods. If Seller determines that any warranty claim is not, in fact, covered by this Limited Warranty, Buyer shall pay Seller its then customary charges for any additionally required Goods.
- 14.2 **Limited Warranty for Services:** Seller further warrants that all Services performed hereunder, if any, will be performed in a workmanlike manner in accordance with applicable law and industry standards by qualified personnel (this "Limited Warranty for Services"); this Limited Warranty for Services shall survive for 30 days following Seller’s completion of the Services (the "Service Warranty Period"). In the event of a warranty claim under this Limited Warranty for Services, Buyer shall inform Seller promptly in writing of the details of the claim within the Service Warranty Period. Seller’s liability under this Limited Warranty for Services is limited (in Seller’s sole discretion) to repeating the service that during the Service Warranty Period does not meet this Limited Warranty for Services or issuing credit for the nonconforming portions of the Service. If Seller determines that any warranty claim is not, in fact, covered by the foregoing Limited Warranty for Services, Buyer shall pay Seller its then customary charges for all Services performed by Seller.
- 14.3 **DISCLAIMER OF WARRANTIES: EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 14.1 and 14.2, SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS AND SERVICES, INCLUDING WITHOUT LIMITATION ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) 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.** Seller does not warrant against, and in no event shall Seller be liable for, normal wear and tear of Seller’s consumable type parts (including but not limited to O-rings, rim gaskets, nuts and bolts, pipe caps and clamps); damages or defects arising out of improper or abnormal use, damages or defects arising from chemical, galvanic, or electrolytic exposure; misuse, abuse, improper installation (other than by Seller), application, operation, maintenance or repair, alteration, accident, or for negligence in use, storage, transportation or handling or other negligence of Buyer. In no event shall Seller be liable for any Goods repaired or altered by someone other than Seller other than pursuant to written authorization by Seller.

14.4 Exclusive Obligation: THE WARRANTIES IN SECTIONS 14.1 AND 14.2 ARE EXCLUSIVE. THE LIMITED WARRANTY FOR GOODS AND THE LIMITED WARRANTY FOR SERVICES ARE THE SOLE AND EXCLUSIVE OBLIGATIONS OF SELLER WITH RESPECT TO ANY DEFECTIVE GOODS AND/OR NON-CONFORMING SERVICES. SELLER SHALL NOT HAVE ANY OTHER OBLIGATION WITH RESPECT TO THE GOODS, SERVICES, OR ANY PART THEREOF, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE. THE REMEDIES SET FORTH IN SECTIONS 14.1 AND 14.2 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 14.1 AND 14.2.

14.5 Buyer Breach: In no event shall Buyer be entitled to assert claims or rights under the above Limited Warranties if Buyer is in breach of its obligations, including but not limited to payment, hereunder.

15 Limitation of Liability and Indemnification

15.1 IN NO EVENT SHALL SELLER BE LIABLE FOR AND BUYER HEREBY EXPRESSLY WAIVES, RELEASES, AND DISCHARGES SELLER FROM ANY AND ALL CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, INCLUDING WITHOUT LIMITATION, REMANUFACTURING COSTS AND REWORK COSTS, DE-INSTALLATION OR REINSTALLATION COST, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (TORT, CONTRACT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND WHATEVER THE FORUM, WHETHER ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, PACKAGING, DELIVERY, STORAGE, USE, PERFORMANCE, MISUSE OR NON-USE OF ANY OF ITS GOODS OR SERVICES OR ANY OTHER CAUSE WHATSOEVER.

15.2 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 AND SERVICES SOLD HEREUNDER.

15.3 BUYER HEREBY COVENANTS TO INDEMNIFY, DEFEND, AND HOLD HARMLESS SELLER INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUBSIDIARIES, AND AFFILIATES ("COLLECTIVELY THE INDEMNIFIED PARTIES"), OF, FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, DAMAGE, EXPENSE, CLAIMS, SUITS, COSTS OF DEFENSE, INCLUDING REASONABLE ATTORNEY FEES WHICH ANY ONE OR MORE OF THE INDEMNIFIED PARTIES MAY SUSTAIN OR INCUR AT ANY TIME FOR OR BY REASON OF (I) ANY INJURY TO OR DEATH OF ANY PERSON OR PERSONS OR DAMAGE TO ANY PROPERTY, ARISING OUT OF USE OF THE GOODS AND/OR ANY CONDITION OR DEFECT OF THE GOODS, INCLUDING, BUT NOT LIMITED TO, CLAIMED IMPROPER DESIGN OR MANUFACTURING DEFECT OR OTHER DEFECT OF THE GOODS AND (II) ANY PRODUCT LIABILITY ARISING FROM THE PREPARATION OR MANUFACTURE OF THE GOODS ACCORDING TO BUYER'S SPECIFICATIONS OR INSTRUCTIONS, OR FROM BUYER'S UNAUTHORIZED OR IMPROPER USE OF THE GOODS OR PART THEREOF, OR FROM ANY CHANGES OR ALTERATIONS TO THE GOODS OR PART THEREOF MADE BY PERSONS OTHER THAN SELLER, OR FROM THE USE OF THE GOODS IN COMBINATION WITH PRODUCTS NOT FURNISHED BY SELLER.

16 Termination: In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for 10 days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

17 Changes: Seller shall not be obligated to implement any changes or variations in the scope of work described in this Agreement unless Buyer and Seller agree in writing to the details of the change and any resulting price, schedule or other contractual modifications. This includes any changes or variations necessitated by a change in applicable law occurring after the effective date of this Agreement including these Terms.

18 Intellectual Property Infringement: Buyer has no authorization to make any representation, statement or warranty on behalf of Seller relating to any Goods sold hereunder. Without limiting the broad scope of Section 15.3, Buyer shall at its expense indemnify, defend, and hold harmless Seller and/or Seller's affiliates from and against any and all claims or liability arising out of or related to any U.S. or applicable foreign patent, copyright, trademark or other intellectual property infringement claims associated with the Goods and/or applicable Services.

- 19 **Ownership of Materials:** All ideas, concepts, whether patentable or not, devices, inventions, copyrights, improvements or discoveries, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information that are: a) created, prepared, reduced to practice or disclosed by Seller and its affiliates; and/or b) based upon, derived from, or utilize the Confidential Information of Seller and its affiliates, and all related intellectual property rights, shall at all times remain Seller's property. No right, title or interest in any patents, trademarks, trade names or trade secrets, or in any pattern, drawing or design for any of the Goods or in any other Seller intellectual property right, shall pass or transfer to the Buyer and Seller and its affiliates shall at all times retain ownership rights therein. Notwithstanding the foregoing, Seller grants Buyer a non-exclusive, non-transferable license to use any such material to the extent necessary and solely for Buyer's use of the Goods purchased by Buyer from Seller hereunder. Buyer shall not disclose any such material to third parties without Seller's prior written consent. As a condition to Seller's delivery to Buyer of the Goods, Buyer shall not, directly or indirectly, and shall cause its employees, agents and representatives not to: (i) alter or modify the Goods, (ii) disassemble, decompile or otherwise reverse engineer or analyze the Goods, (iii) remove any product identification or proprietary rights notices, (iv) modify or create derivative works, (v) otherwise take any action contrary to Seller's rights in the technology and intellectual property relating to the Goods, and/or (vi) assist or ask others to do any of the foregoing.
- 20 **Export:** As a condition to Seller's delivery to Buyer of the Goods, Buyer agrees, with respect to the exportation or resale of the Goods by Buyer, to comply with all requirements of the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"), regulations issued thereunder and any subsequent amendments thereto, and all other national, including, but not limited to, laws and regulations pertaining to export licenses, restrictions on export to embargoed countries and restrictions on sales to certain persons and/or entities. Buyer further agrees that the shipment and/or delivery of the Goods by Seller is contingent upon Seller obtaining all required export authorizations, licenses, and permits (collectively, "Authorizations") and Buyer agrees that Seller shall not be liable to Buyer for any failure or delay in the shipment or delivery of the Goods if such Authorizations are delayed, conditioned, denied or not issued by the regulatory or governmental agencies having jurisdiction over such Authorizations.
- 21 **Anti-Bribery /Anti-Corruption:** Each party represents and warrants that it understands and shall comply with the requirements of the US Foreign Corrupt Practices Act and all other applicable anti-bribery and anti-corruption laws of the jurisdictions under which each party is or maybe acting here under.
- 22 **Confidentiality:** If Seller discloses or grants Buyer access to any research, development, technical, economic, or other business information or "know-how" of a confidential nature, whether reduced to writing or not, Buyer will not use or disclose any such information to any other person or company at any time, without Seller's prior written consent. In the event that Buyer and Seller have entered into a separate confidentiality agreement (the "Confidentiality Agreement"), the terms and conditions of the Confidentiality Agreement shall take precedence over the terms of this paragraph.
- 23 **No Waiver:** No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. Seller's failure to exercise, or to delay in exercising, any right, remedy, power or privilege arising from this Agreement, or to insist on Buyer's strict performance of these Terms shall not operate as or be construed as a waiver by Seller.
- 24 **Force Majeure:** Whenever performance by Seller of any of its obligations hereunder, is substantially prevented by reason of any act of God, strike, lock out, or other industrial or transportation disturbance, fire, lack of materials, law, regulation or ordinance, war or war conditions, or by reason of any other matter beyond its reasonable control, then such performance shall be excused, and deemed suspended during the continuation of such event and for a reasonable time thereafter, delayed, or adjusted accordingly.
- 25 **No Third-Party Beneficiaries:** This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.
- 26 **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.

- 27 **Severability:** If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in any part, such provision shall be ineffective, but only to the extent of such invalidity or unenforceability, without invalidating the remainder of such provision nor the other provisions, which shall not be affected.
- 28 **Governing Law:** This Agreement, and all the rights and duties of the Parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed and construed by the laws of the State of North Carolina, without giving effect to any choice or conflict of law provision or rule (whether of the State of North Carolina or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of North Carolina.
- 29 **Submission to Jurisdiction:** Buyer and Seller hereby unconditionally and irrevocably submit to (and waive any objection on the grounds of inconvenient forum or otherwise) the exclusive jurisdiction of the State and United States Federal Courts serving Iredell County, North Carolina, U.S.A. which courts shall have exclusive jurisdiction to adjudicate and determine any suit, action or proceeding regarding or relating to this Agreement and the purchase and supply of the Goods. A judgment, order or decision of those courts in respect of any such claim or dispute shall be conclusive and may be recognized and enforced by any courts of any state, country or other jurisdiction.
- 30 **No Jury Trial:** BUYER AND SELLER HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.
- 31 **Survival:** All payment, confidentiality and indemnity obligations, warranties, limitations of liability, product return, and ownership of materials provisions together with those sections the survival of which is necessary for the interpretation or enforcement of these Terms, shall survive the expiration or termination of this Agreement and continue in full force and effect for the greater of the duration stated in such provisions or the applicable statute of limitations.
- 32 **Amendment and Modification:** This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each Party.
33. **Code of Conduct.** Buyer shall be familiar with and shall adhere to the principles of Seller's Code of Conduct located at <http://www.amiadusa.com/about.asp> as well as Seller's ethics and compliance guidelines. Buyer shall promptly report any fraud, illegal activity, or violations of Seller's Code of Conduct by any party, including Buyer's suppliers and service providers.
34. **Data Protection.** Each Party shall comply with its obligations under all applicable data protection laws in respect of the Goods and Services to be provided under this Agreement. Each Party agrees in respect of any such confidential or personal data supplied to it by the other Party that it shall: (a) only act on instructions from the other Party regarding the processing of such confidential or personal data under this Agreement and shall ensure that appropriate technical and organizational measures shall be taken against unauthorized or unlawful access or processing of the confidential or personal data and against accidental loss or destruction of, or damage to, the confidential or personal data; and (b) comply with any reasonable requests made by the other Party to ensure compliance with the measures contained in this Section.
35. **Assignment.** Buyer shall not assign, delegate or otherwise dispose of all or any portion of the Agreement without the prior written consent of Seller.
36. **Entire Agreement.** This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral.