

General Terms and Conditions of Purchase

of

b+m surface systems America corp.

(referred to below as “b+m”)

By acceptance of the b+m purchase order, Seller agrees to all terms, prices, deliveries, specifications and conditions herein contained.

1. **Definitions.** As used herein: (i) The term “**goods**” refers to all materials, supplies, equipment, parts, accessories, ingredients and other items to be sold to b+m pursuant to the order, and unless the context otherwise requires, shall also include installation and other services related to the goods which Seller agrees to provide; (ii) the term “**services**” refers to all services of any nature whatsoever ordered or required by b+m hereunder; and (iii) the term “**order**” refers to the applicable b+m purchase order and, unless the context indicates otherwise, these general terms and conditions.

2. **Additional Terms.** The order expressly limits acceptance to the terms set forth in the order. No terms contained in Seller’s documents in accepting or acknowledging the order shall be binding upon b+m if inconsistent with or in addition to the terms stated or referenced herein, except to the extent separately and specifically agreed to in writing by b+m. b+m’s failure to object to provisions contained in Seller’s documents shall not be deemed a waiver of the terms and conditions set forth or referenced in the order.

3. **Delivery and Acceptance.**

(a) **Time is of the essence.** If delivery is not made pursuant to the terms of the order and/or in accordance with b+m’s specifications, b+m has the right to cancel the order or any portion thereof. b+m may cancel the order if Seller does not accept the order within two weeks, or one week if the order was sent electronically. Release orders become binding if Seller has not rejected them within two weeks, or one week after receipt if the release was sent electronically.

(b) **The deciding factor for compliance with the delivery schedule or the delivery deadline is receipt of the goods at the delivery address or place of use as specified by b+m.** If Seller realizes that the agreed schedule cannot be maintained for any reason, b+m must be informed immediately of the reasons and the duration of the delay by electronic means, and Seller must take all necessary action at Seller’s expense to prevent delay and avoid any damages caused by the delay. At the request of b+m, Seller is required to provide information on the status of production of ordered goods. In case of delivery before the agreed date, b+m reserves the right to return the goods at Seller’s expense or to refuse acceptance. If a delivery is made before the specified time and it is not returned or rejected, the goods will be stored until the scheduled delivery date by b+m at Seller’s expense and risk.

(c) **Seller shall deliver the goods in the quantities and on the date(s) specified in the order. b+m will only accept partial deliveries when specifically agreed in advance. When partial deliveries are made by agreement, the remaining quantity due for delivery must be listed in the delivery documents.**

(d) In the event of delay, Seller is required to reimburse b+m for immediate and consequential damages caused by the delay. On expiry of a second deadline agreed to by us without result, b+m is also entitled to terminate the order in cases where the services provided by Seller are not in accordance with the order, and to demand compensation for damages or compensation instead of the service, provided that the legal requirements are fulfilled. The acceptance of delayed delivery or services does not imply waiver of demands for compensation.

(e) All goods furnished must meet b+m's established quality standards for the specifications attached hereto or sent separately by b+m, and such specifications are incorporated herein by reference. Goods shall be packed, labeled and shipped in accordance with b+m's specifications. Goods will be subject to inspection by b+m and acceptance or rejection at any time after receipt, and delivery shall not be deemed complete until such goods have actually been received and accepted by b+m, and the risk of loss on the goods shall be borne by Seller until such delivery and acceptance. If rejected, goods will be held for disposition at Seller's risk and expense, which includes returned freight unless otherwise specified. b+m's decision to accept or reject shall be final.

(f) Unless otherwise specified by b+m in writing, goods which are to be shipped shall be shipped F.O.B. shipping point or place of use specified by b+m (DDU – delivered duty unpaid as defined in INCOTERMS 2000). If in exceptional cases a price "ex stock" or "ex works" is agreed, b+m will only pay the most favorable freight costs. In every case Seller will pay costs incurred up to transfer to the shipper, including loading.

(g) Shipping is at the risk of Seller. The risk of deterioration, including accidental loss, remains with Seller until delivery to the delivery address or place of use specified by b+m, unless otherwise agreed in specific cases.

(h) Seller agrees that we may cause the return of all packaging materials to Seller at Seller's expense.

(i) An itemized packing slip shall accompany each shipment and the unit containing the said slip shall be marked "Packing Slip Enclosed". A reasonable monetary penalty may be assessed against Seller in b+m's discretion if any shipment lacks a packing list.

(j) Insofar as authorities who are responsible for safety, approval, commissioning, environmental protection etc. require information on the production processes and test documentation of b+m in order to check specific requirements, Seller shall provide assistance to the extent reasonably possible.

(k) Seller will carry out suitable dispatch inspections before shipping goods, and will take samples from every delivered batch and store them for fifteen (15) years.

(l) If faulty or otherwise non-conforming goods are delivered, at b+m's option Seller may be given the opportunity of repair or replacement before start of production (processing or installation), unless this is not feasible for b+m. If Seller cannot do this or if the goods are not replaced immediately, b+m may terminate the order and return the goods at Seller's risk and expense or demand a reduction. In urgent cases, b+m may carry out repairs in consultation with Seller or have them done by a third party. Seller will be responsible for all expenses involved. The right of b+m to demand compensation for damages or reimbursement for unavoidable expenses will not be affected.

4. Hazardous Substances.

(a) If the object of the order is a substance or a preparation that has hazardous properties as defined by the hazardous materials regulations or if such properties are generated when working with this

substance, Seller must classify, package and label the object in accordance with the applicable regulations of the hazardous materials regulations.

(b) With initial manufacture of samples and with initial series manufacture a current, dated material safety data sheet must be prepared in English, which must include the place of usage and the purpose. The material safety data sheet must be resubmitted without demand whenever the substance or preparation is modified and whenever the material safety data sheet is revised by Seller, and in any case every three years. If there are special regulations for use, b+m must be informed separately in writing, and b+m must be consulted in the application of the substance or preparation with reference to the local conditions. The regulations, particularly the obligations of Seller under the hazardous materials regulations in the version current at the time of delivery, remain unaffected.

5. Price. Seller warrants that the prices specified in the order are as low as any net prices now given by Seller to any other customer for goods or services of like grade and quality in like quantities, and Seller agrees that if at any time during the pendency of the order lower net prices are quoted under similar conditions, said lower net prices shall apply from that time substituted for the prices in the order. Seller agrees that any price reductions made in the goods or services covered by the order subsequent to its acceptance but prior to payment thereof will be applicable to the order. The prices specified in the order include all costs and charges to be incurred by Seller in the manufacture, production, delivery, and sale of the goods and services called for by the order, including, without limitation, all service charges, all applicable federal, state and local taxes and duties, all wages and fees for services and materials, and all charges for transportation, packing, packaging and returnable containers, unless specified otherwise by the parties in writing.

6. Payment.

(a) Payment will be made by the 25th of the month following receipt with a 2% discount, or by the 25th of the next month net after receipt and inspection of the goods as specified in the order and receipt of a correct and confirmed invoice. If deliveries are accepted earlier, the due date of payment will be in accordance with the originally agreed date of delivery.

(b) Payments by b+m do not confirm the accuracy of the accounting.

(c) In case of faulty delivery, b+m is entitled to withhold payment until the fault has been corrected. If payments have already been made for the faulty delivery, b+m is entitled to withhold any other payments due in the amount of the payments previously made.

(d) Without prior written approval by b+m, which may not be rejected without good reason, Seller is not entitled to transfer invoices due from b+m to third parties or have them paid to third parties. Approval will be considered granted in the presence of extended retention of title.

(e) Invoices from Seller must be submitted to b+m in two copies (duplicate marked) and must include Seller number, number and date of purchase order, delivery location, number and date of waybill, quantity and part(s) identification number with index and the contractually specified price per unit of the goods.

(f) On request by b+m, Seller must provide the origin of goods supplied, and identify the manufacturer or Seller's suppliers. Seller shall provide complete and signed proofs of origin when requested by b+m.

(g) Seller shall inform b+m promptly if the supplied goods are subject to complete or partial export restrictions under German law or any other law.

(h) b+m payment shall not be construed to limit b+m's right of inspection, acceptance, set-off, or any other right.

7. **Warranties.** Seller hereby represents and warrants to b+m the following:

(a) Seller will diligently perform its services to the highest degree of workmanship. All goods and services shall be free from defects in workmanship and material and shall be in conformity with specifications, drawings, samples, advertising materials, descriptions or performance criteria referred to herein, if any, and if of Seller's design, shall be free from design defects. All goods shall be merchantable and all goods and services shall be suitable for b+m's particular purposes, if any, as have been made known to Seller or reasonably should be known to Seller, and shall be safe and appropriate for the purposes for which goods and services of that kind are normally used.

(b) The goods, services and production, packaging, storage and delivery thereof shall be in compliance with all applicable federal, state and local laws, rules, regulations, requirements, ordinances and orders, including without limitation, all provisions of (i) the Occupational Safety and Health Act of 1970, as amended, (ii) Executive Order 11246 issued September 24, 1965, as amended, (iii) the Federal Food, Drug and Cosmetic Act, as amended (the "FFDCA"), (iv) the Fair Labor Standards Act, as amended, (v) Title 42, U.S.C.A. § 2000, et. seq., as amended, (vi) Section 136 of Title 7 of the U.S. Code, as amended, (vii) the Federal Hazardous Substances Act, as amended, (viii) the Consumer Product Safety Act, as amended, (ix) the Poison Prevention Packaging Act, as amended, (x) the Federal Fair Packaging and Labeling Act, as amended, (xi) the Robinson-Patman Act, as amended, and (xii) the Immigration Reform and Control Act, as amended; and all rules, regulations and orders thereunder (collectively, "Applicable Laws"). On request Seller shall furnish b+m certificates of compliance with all Applicable Laws which apply to the order.

(c) No goods sold to b+m under the order are adulterated or misbranded within the meaning of the FFDCA or within the meaning of any other federal, state or local law.

(d) Seller has full power to enter into, and to perform fully pursuant to the provisions of, the order and no goods or services or the provision, use or sale thereof shall in any way infringe upon or violate any rights of any party whether they be patent, trademark, trade secret, copyright, contractual or otherwise, except to the extent that Seller has manufactured the objects of delivery in accordance with drawings, models or equivalent descriptions or requirements supplied by b+m and does not know or cannot know that this violates property rights involved in products developed by the supplier.

(e) All goods are covered by Seller's comprehensive product liability insurance. Said insurance should be placed with a responsible insurance company limited in amount to not less than \$1,000,000.

(f) All express warranties shall survive inspection, testing, and acceptance of the goods by b+m and expiration or termination of the order and shall be in addition to all warranties, express, implied or statutory.

(g) All warranties shall inure to b+m, its customers and subsequent owners or consumers of the goods or services covered hereunder or the end products of which they are a part.

8. **Parts.**

(a) Seller agrees to maintain the required capacity for manufacture of the objects of delivery for the spare parts market, so that b+m will be able to supply spare parts to end customers and consumers for up to 15 years. The parties to the order will specify the relevant periods in consultation with b+m's customers. If Seller is unable to provide the required capacity, whether for reasonable or unreasonable circumstances (e.g. bankruptcy or insolvency), Seller will ensure provision of the required capacity by third

parties in consultation with b+m and agrees to grant any required licenses and provide technical support. The conditions agreed between the parties will continue to be applicable for deliveries for the spare parts market.

(b) In the case of parts specifically identified in the technical documentation or by separate agreements, Seller must also record in separate drawings when, how and by whom the objects of delivery have been tested with reference to the characteristics requiring documentation and the results of the required quality tests. The test reports must be stored by Seller for 20 (twenty) years and submitted to b+m in writing on demand. Subsuppliers to Seller shall be subject to the same requirements to the extent permitted by law.

9. **Force Majeure.**

(a) Force majeure, legal industrial action, insurrection, government action and other unforeseeable, unavoidable and serious events release the contractual parties from their obligations for the duration of the disturbance and their effects. Seller shall supply the required information to the extent feasible and adjust its obligations to the changed circumstances in good faith.

(b) b+m is fully or partially released from the obligation to accept the ordered delivery and is entitled to terminate the order if delivery is no longer feasible for b+m - with reference to business reasons - as a result of delays caused by force majeure.

10. **Indemnity.** Seller shall, at its own sole cost and expense, defend, indemnify and hold harmless b+m and its affiliates, subsidiaries, officers, agents and employees against all claims, expenses (including, without limitation, attorneys' fees to defend lawsuits that allege a loss regardless of whether the lawsuit has merit), special, indirect, incidental or consequential damages, lost profits, losses, costs, damages, liabilities and suits arising from any breach or violation of the order terms, and/or from Seller's negligence, failure to warn, strict liability or any alleged defect in the goods or services tendered hereunder, including but not limited to any breach or alleged breach of any implied warranty or any of the express warranties described herein, product recalls, or any alleged acts or omissions of Seller or its affiliates, subsidiaries, officers, agents, employees or subcontractors. b+m reserves the right at any time to control its own defense.

11. **Waiver.** b+m shall not, by any act, delay, omission or otherwise, be deemed to have waived any of its rights or remedies under the order, and no waiver whatever shall be valid as against b+m unless in writing, signed by an authorized representative of b+m, and then only to the extent set forth therein. b+m's waiver of any right or remedy under the terms of the order on any one occasion shall not be construed as a waiver of any right or remedy which b+m would otherwise have on a future occasion.

12. **Intellectual Property.**

(a) In the event Seller, or any subcontractor or other third party working for Seller, creates or develops any designs or goods or services especially for b+m, the proprietary rights to such designs, goods or services shall vest exclusively in b+m, and Seller hereby assigns and conveys and shall assign and convey or cause to be assigned or conveyed all such proprietary rights, including but not limited to all copyright, trademark and patent rights therein.

(b) Except as provided in the preceding subsection, in the event Seller, or any subcontractor or other third party working for Seller, designs or incorporates any new features of design or improvements in any designs or goods made, or services furnished, pursuant to the order as a result of Seller's or such third party's compliance with the drawings, specifications or directions of b+m, Seller grants to b+m the right to reproduce such designs or goods or to perform such services together with, if applicable, a royalty-free, nonexclusive, irrevocable license covering such new feature of design or improvement.

(c) Seller shall execute, and shall cause subcontractors and other third parties working for it to execute, any and all instruments deemed by b+m to be necessary or appropriate under subsections (a) and (b) hereof.

(d) Seller shall assert no claim of any proprietary interest in or to any drawings, specifications or other material furnished by b+m to Seller in connection herewith, and Seller shall not use such drawings, specifications or other material (other than in connection with the order) without the prior written consent of b+m.

(e) Any information which Seller may disclose to b+m with respect to the design, manufacture, sale or use of the goods or services shall be deemed to have been disclosed as part of the consideration for the order, and Seller shall not assert any claim (other than a claim for patent infringement) against b+m by reason of b+m's use thereof. b+m does not grant indemnity to Seller for infringement of any patent, trademark, copyright or data rights.

(f) In no event shall Seller sell or distribute in any manner whatsoever to persons other than b+m or parties authorized in writing by b+m, goods, supplies, materials or objects of any kind which are imprinted with or contain b+m's logo, trade names, trademarks or labels, even if rejected by b+m as nonconforming.

(g) Models, dies, templates, samples, molds and other production equipment, as well as confidential information, provided to Seller by b+m or paid for by b+m must not be made available to third parties or otherwise made available for supply to third parties or in any other way, e.g. by usage or exploitation of such objects, without prior written approval from b+m. b+m retains all ownership and property rights of any kind of these objects. Without giving reasons, b+m may request the immediate return of production equipment and confidential documentation.

13. **Confidentiality.**

(a) Seller shall not use or disclose any data, designs, or other information belonging to, supplied by or on behalf of b+m. Upon completion by Seller of its obligations under the order or upon b+m's request, such data, designs and other information or any copies thereof shall be returned to b+m. Where in accordance with b+m's written authorization, b+m's data, designs or other information is furnished to Seller's suppliers for procurement of supplies by Seller for use in the performance of the order, Seller shall insert the substance of this provision in its own purchase order.

(b) The order is confidential, and Seller shall not, without prior written consent of b+m, disclose any information relative to or derived under the order, except as may be required to ensure performance. Unless otherwise authorized by b+m, Seller shall not advertise or publish the fact that Seller has contracted to furnish b+m the goods or services.

(c) Seller is required to subject employees and subcontractors to the foregoing obligation of this Section; on demand by b+m, Seller will confirm compliance with these obligations in writing.

(d) Seller is permitted to advertise with the business connections of the contracting parties only after prior written approval by b+m. Seller agrees to use the company name or trade mark of b+m only with b+m's prior written approval.

14. **Assignment.** Neither the order, or any part thereof, may be assigned, subcontracted or otherwise transferred by Seller, voluntarily or by operation of law, without the prior written consent of b+m, and any such assignment or transfer without such consent shall be null and void and of no force or effect whatsoever. The terms and conditions of the order shall bind any permitted successors and assigns of Seller.

15. Miscellaneous.

(a) Any notice or communication required or permitted hereunder shall be sufficiently given if sent in writing by registered or certified mail, postage prepaid, if to Seller: at its address on the face of the invoice and if to b+m: at its address on the face of the purchase order, to the attention of: CEO. Any such notice, if so mailed, shall be deemed to have been received the third business day following such mailing. Either party hereto may change its address for notice purposes by written notice to the other party as specified herein.

(b) All rights and obligations under the order, including those arising from any contract based on or resulting from or arising out of the order, shall be deemed to be made and shall be governed by the laws of the State of Tennessee. Litigation brought to contest disputes arising under the order shall be brought only in the state or federal courts of the State of Tennessee.

(c) **SELLER AND BUYER IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTERCLAIM OR CROSS-COMPLAINT IN ANY ACTION OR OTHER PROCEEDING BROUGHT BY THE OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH OR RELATED TO THE ORDER OR ANY PORTION OF ANY AGREEMENT WHICH IS RELATED TO THE ORDER, WHETHER BASED UPON CONTRACTUAL, STATUTORY, TORTIOUS OR OTHER THEORIES OF LIABILITY.**

(d) The various provisions of the order are severable and any determination of invalidity or unenforceability of any one provision hereof shall have no bearing on the continuing force and effect of the remaining provisions hereof.

(e) Seller shall be deemed in all respects an independent contractor and neither Seller nor any of its agents or employees shall have the right or authority to bind b+m in any way.

Entire Agreement. The order, including, without limitation, the foregoing terms and conditions, together with any documents incorporated herein by reference, contain the sole and entire agreement between b+m and Seller regarding the subject matter hereof, and shall be applicable to all goods and/or services furnished by Seller to b+m, provided, however that if a written contract is already in existence between b+m and Seller covering the purchase of the same goods or services being purchased hereunder, the terms and conditions of said contract shall prevail to the extent that the same may be inconsistent with the terms and conditions hereof.