

G.W. LISK COMPANY, INC.

2 South Street
Clifton Springs, NY 14432

TERMS AND CONDITIONS GOVERNING ALL SALES

1. GOVERNING TERMS AND CONDITIONS

All quotations shall be considered offers by G.W. Lisk Company, Inc., (hereinafter referred to, together with its divisions and subsidiaries collectively, as "Lisk") to sell the goods described herein (the "Goods") to the buyer specified on the face hereof (the "Buyer"). Lisk's sale of the Goods will be solely upon the terms and conditions of sale (the "Terms") set forth herein. 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 to the extent they are inconsistent with these Terms.

The accompanying quotation 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 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 acceptance of the offer must be limited to the terms hereof. Additional or conflicting terms are rejected.

2. PRICE

Unless otherwise specified on the face hereof, prices are Ex Works (EXW) Lisk's plant and in U.S. dollars. Any added expenses incurred by Lisk because of delays in receipt of details, specifications and other pertinent information, because of defects in materials furnished by Buyer, or because of changes in material or design requested by Buyer, shall be chargeable to Buyer. All quotes remain open for thirty (30) days unless otherwise specified. Lisk may revise pricing or other terms of any quote not accepted within thirty (30) days. Prices are good only for the Goods, quantities and terms stated. All quotes are subject to the express reservation that Lisk may change pricing at any time if its materials or manufacturing costs increase.

Buyer shall pay in addition to the contract price any and all customs duties and sales, use, value added, excise, retailer's occupation and/or other taxes payable by reason of the sale of goods, together with any interest and penalties thereon. Unless otherwise specified, for sales outside the United States, Buyer shall be the importer of record. Buyer shall reimburse Lisk for any such taxes, including interest and penalties thereon, as may be paid by Lisk together with any expenses connected therewith.

3. PAYMENT

Net payment in full is due within thirty (30) days after shipment or storage of Goods as provided herein. Unless otherwise specified, there shall be no allowance for cash discount. Unpaid invoices shall be subject to a service charge of 1½% per month (or fraction thereof) overdue, and Buyer shall pay Lisk's reasonable attorneys' fees and other collection costs of collecting overdue invoices. If Buyer is in default on this or any other order or if, in the judgment of Lisk, the financial condition of Buyer, at any time prior to shipment, does not justify the terms of payment herein specified, Lisk may require full or partial payment in advance of manufacture SA2028-1, 25Apr16

or shipment. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Lisk, whether relating to Lisk's breach, bankruptcy or otherwise.

4. DELIVERY

Delivery schedules are approximate only and date from the receipt of the purchase order and all supplemental information relating thereto. Buyer's acceptance of delivery shall constitute a waiver of any claim for delay.

Methods and routes of shipment, unless specified by Buyer and made a part of the quote, shall be accepted as chosen by Lisk. Delivery to common carrier, EXW Lisk's plant or warehouse shall constitute delivery and passage of title to Buyer, and risk of loss shall pass to Buyer concurrently with the transfer of title. Goods held beyond scheduled shipment date at Buyer's request are subject to reasonable storage and incidental charges.

If Buyer or the carrier refuse delivery or delay shipment or acceptance, the Goods may be stored according to Lisk's direction, as Buyer's agent, at Buyer's risk and expense. During any such period of storage, Buyer shall have title to the Goods and bear the risk of loss.

Lisk may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

All costs subsequent to delivery, including but not limited to the cost of shipment and installation of the Goods described herein, shall be borne by Buyer unless otherwise specifically agreed in writing by the parties.

Lisk shall not be liable for delay or default directly or indirectly resulting from or contributed to by any circumstances beyond Lisk's control including, without limitation, delays of the manufacturer or supplier of the individual parts of the order, restraints or delays affecting or inability or delay in obtaining supplies of adequate or suitable materials and/or raw materials, accident to plant or equipment, lack or unavailability of plant capacity; riots; wars or national emergency; labor disputes of every kind, however caused; embargoes; non-delivery by suppliers; delays or carrier or postal authorities; or governmental restrictions, allocations, priorities, prohibitions or diversions.

5. TITLE AND RISK OF LOSS

Title and risk of loss passes to Buyer upon delivery of the Goods. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Lisk a lien on 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. The security interest granted under this provision constitutes a purchase money security interest under the New York Uniform Commercial Code.

6. INSPECTION AND REJECTION OF NONCONFORMING GOODS

Buyer shall inspect the Goods within three (3) days of receipt ("Inspection Period"). Buyer will be deemed to have accepted the Goods unless it notifies Lisk in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Lisk. "Nonconforming Goods" means only the following: (i) product shipped is different than identified in the quote; or (ii) product's label or packaging incorrectly identifies its contents.

If Buyer timely notifies Lisk of any Nonconforming Goods, Lisk 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 Lisk's facility. If Lisk exercises its option to replace Nonconforming Goods, Lisk shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods.

Buyer acknowledges and agrees that the remedies set forth in this Section 6 are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under this Section 6, 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 to Lisk.

7. DRAWINGS AND SPECIFICATIONS; TOOLING AND DIES

Lisk shall own all copyrights in all drawings and specifications prepared by or for it in connection with the Goods. Lisk shall own all patents and other intellectual property rights in any inventions made by it in the course of its design or manufacturing of the Goods, subject to a license to Buyer to use and resell the Goods for ordinary commercial purposes.

Buyer shall provide immediate written notice to Lisk upon receiving any drawing, specification or other submittal from Lisk if the same is incorrect, improper, or otherwise objectionable. If Buyer fails to do so, the same shall be considered Buyer's criteria, and Lisk shall be absolved of responsibility under this agreement (including under Section 9 entitled "WARRANTY") and under all applicable laws, for all purposes. When Lisk adheres to designs, drawings and/or specifications furnished or approved by Buyer (even if Lisk prepared or approved the same), Lisk shall not be responsible for them or their suitability for the application intended.

Lisk shall be the sole owner of all tooling, dies, jigs, gauges and fixtures used in producing the Goods. Lisk may dispose of any or all of these items without liability to Buyer if Lisk receives no orders for the subject Goods for any 18-month period.

8. CANCELLATION

This contract is not subject to cancellation by Buyer without Lisk's written consent. Such consent will be granted, if at all, only upon the condition that Buyer shall pay Lisk reasonable cancellation charges determined by Lisk. Any cancellation or rescission by Buyer shall constitute a discharge of any claim by Buyer relating to this transaction.

9. WARRANTY

Lisk warrants to Buyer that for a period of twelve (12) months from the starting date of service, but not to exceed eighteen (18) months from the date of manufacture of the Goods as indicated by

the date code (the "Warranty Period"), that such Goods are free from defects in workmanship and material, when installed and operated in the manner, and under the environmental conditions for which representative prototype units have been tested and approved by Buyer. For this limited warranty to become valid, Lisk must receive a written statement that Buyer has tested prototypes in actual and/or simulated field installations, has exposed them to the actual and/or simulated extremes of the environmental conditions to be encountered, and that the prototypes successfully met all of Buyer's performance, environment, and life requirements.

EXCEPT FOR THE WARRANTY SET FORTH IN THIS SECTION 9, LISK MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING 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.

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 this Section 9. For the avoidance of doubt, LISK MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) 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.

Lisk shall not be liable for a breach of the warranty set forth in this Section 9 unless: (i) Buyer gives written notice of the defect, reasonably described, to Lisk within ten (10) days of the time when Buyer discovers or ought to have discovered the defect; (ii) Lisk is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested to do so by Lisk) returns such Goods to Lisk's place of business at Lisk's cost for the examination to take place there in compliance with the Lisk Returned Goods Policy; and (iii) Lisk reasonably verifies Buyer's claim that the Goods are defective. Lisk shall not be liable for a breach of the warranty set forth in this Section 9 if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow Lisk's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of Lisk.

Subject to the preceding paragraph, with respect to any such Goods during the Warranty Period, Lisk's only obligation shall be to repair or replace such Goods (or the defective part).

THE REMEDIES SET FORTH IN THIS SECTION 9 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND LISK'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS SECTION 9.

10. LIMITATION OF LIABILITY

The obligation of refunding the purchase price, replacement or repair set forth in Section 9 constitutes Lisk's entire and exclusive liability and Buyer's sole and exclusive remedy with respect to the Goods, and shall be in lieu of any other remedy available under applicable law, including any action based on negligence, strict tort or product liability.

LISK WILL IN NO EVENT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, AND LISK'S LIABILITY UNDER NO CIRCUMSTANCES WILL EXCEED THE CONTRACT PRICE FOR THE GOODS OF WHICH LIABILITY IS CLAIMED.

Buyer is responsible for its own testing, and Lisk assumes no liability for its test procedures or results or any deficiency therein.

Buyer accepts all risk of the use of the Goods, whether used singly or in combination with other products or components. Performance statements in any promotional literature or elsewhere are descriptive only, and are not warranties. Buyer hereby waives any right to damages in the event it rescinds the contract for breach of warranty.

11. 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. Lisk may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

12. PATENTS AND TRADEMARKS

Lisk's Goods are offered and sold on the condition that such sale does not convey any license, expressly or by implication, estoppel, or otherwise, under any patent, trademark, copyright or know-how with respect to which Lisk can grant licenses except as specifically set forth herein.

Lisk will not be liable for any claim of infringement unless due to infringement by Goods manufactured by Lisk in the form in which Lisk has supplied such Goods to Buyer and without regard to their use by Buyer. If Buyer notifies Lisk promptly of any such claim of infringement and, if Lisk so requests, authorizes Lisk to defend or settle any suit or controversy involving such claim, Lisk will, as its sole and exclusive obligation, bear the reasonable expenses of any such suit with counsel chosen by it (but not any expenses incurred by Buyer or any other person) and will satisfy any judgment or settlement in which Lisk acquiesces, but only to an amount not exceeding the price paid to Lisk for the allegedly infringing Goods.

13. CONFIDENTIAL INFORMATION

All non-public, confidential or proprietary information of Lisk, including but not limited to registered and unregistered intellectual property, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Lisk to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this

Agreement and may not be disclosed or copied unless authorized in advance by Lisk in writing. Upon Lisk's request, Buyer shall promptly return all documents and other materials received from Lisk. Lisk shall be entitled to injunctive relief for any violation of this Section 13. This Section 13 does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party

14. TERMINATION

In addition to any remedies that may be provided under these Terms, Lisk 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 thirty (30) 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.

15. GOVERNING LAW

Any contract arising out of the offer shall be governed by and construed in accordance with the laws of the State of New York without reference to the conflicts principles of such State. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract.

Any legal suit, action or proceeding arising out of or relating to this Agreement (a "Proceeding") shall be instituted in the United States District Court for the Western District of New York or the Supreme Court of the State of New York, County of Ontario, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

If any Proceeding is instituted and Lisk is the prevailing party, Lisk is entitled to receive, and Buyer shall pay, in addition to all other remedies to which the prevailing party may be entitled, the costs and expenses incurred by Lisk in connection with the Proceeding, including reasonable attorneys' fees and expenses, even if not recoverable by law (including, without limitation, all fees, taxes, costs and expenses incident to appellate, bankruptcy and post-judgment proceedings).

16. GENERAL

Any assignment of this agreement by Buyer without Lisk's written consent shall be void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

No waiver by Lisk of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Lisk. 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.

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.

Where Buyer's order covers operations to be performed by Lisk on articles supplied by Buyer, such articles shall remain the property

of Buyer at all times and Buyer assumes all risk of loss or destruction including normal spoilage, excepting only loss or destruction due to Lisk's gross negligence. Storage, handling and transportation shall be at Buyer's expense.

Buyer shall notify Lisk in writing of any accident, injury to person, damage to property, loss or other occurrence involving Goods supplied hereunder within thirty (30) days of the occurrence thereof, if Lisk might be liable therefor to persons other than Buyer. If Buyer shall fail to so notify Lisk, Buyer shall defend, indemnify and save Lisk harmless from all claims against and liability of Lisk arising out of such occurrence.

17. DISPUTES

Any litigation concerning this agreement or the Goods shall be brought only in a court with subject matter jurisdiction located in Ontario County, New York, and the parties hereby expressly and irrevocably consent and submit to the personal jurisdiction of all such courts for this purpose and waive any claim that such forum is inconvenient, provided, that Lisk may, at its sole option, nonetheless bring an action for the price of the Goods and any other sums due to it hereunder or under any other agreement or transaction in any other court with subject matter jurisdiction where personal jurisdiction over Buyer may be obtained.

18. 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. No agreement or other understanding in any way adding to or modifying the prices, terms or conditions set forth herein shall be binding upon Lisk unless made in writing and signed by Lisk's authorized agent or officer.

19. SURVIVAL

Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Disputes and Survival.

20. NON-DELIVERY

The quantity of any installment of Goods as recorded by Lisk on despatch from Lisk's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

Lisk shall not be liable for any non-delivery of Goods (even if caused by Lisk's negligence) unless Buyer gives written notice to Lisk of the non-delivery within three (3) days of the date when the Goods would in the ordinary course of events have been received.

Any liability of Lisk for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

21. FORCE MAJEURE

Lisk 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 Lisk 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.

22. FLAME ARRESTOR DISCLAIMER

Functional testing, qualification and approval for the intended application are the sole responsibility of the Buyer. With all applications containing hydrogen, or any NEC Class 1, Group A or B gas; we strongly recommend flame testing at a systems level.