

Automation - Terms and Conditions of Sale

- 1. Scope.** Seller means the Lincoln Electric entity identified in the Seller Documents (defined below), and Buyer means the industrial company purchasing Goods, Services and/or Software from Seller. Any Seller proposal, acknowledgment or invoice and all documents incorporated by specific reference herein or therein by Seller (the "Seller Documents"), and these terms and conditions of sale (these "Terms"), collectively constitute the complete terms and conditions governing the sale of Goods, Services and/or Software (the "Agreement"). These Terms shall apply exclusively even if Seller (i) accepts orders without reservations, (ii) performs deliveries or renders any Services in knowledge of Buyer's terms and conditions, or (iii) makes direct or indirect reference to any correspondence, etc., which contains Buyer's terms and conditions or those of any third party. Any conflicting, diverging, or supplemental terms and conditions of Buyer shall apply only if Seller expressly consents in writing. Commencement of any work by Seller or Buyer's acceptance of delivery of the Goods, Services and/or Software will manifest Buyer's assent to the Agreement. Additional or different terms applicable to a particular sale may be specified in the body of a Seller Document or agreed to in a written contract signed by both parties. In the event of a conflict, the following order of precedence will apply: (a) written contract signed by both parties; (b) Seller Documents; and (c) these Terms.
- 2. Definitions:** Unless the context otherwise requires: (a) "Goods" as used herein means Goods sold under an Agreement, as identified in the Seller Documents; (b) "End-User" is the person or entity who uses the Goods or possesses them without any intention of resale. The "initial" End-User is the first End-User; (c) "Services" as used herein means all labor, supervisory, technical and engineering, installation, commissioning, programming, support, repair, training, consulting or other services provided by Seller under an Agreement; and (d) "Software" as used herein means all software, plus software documentation, if any, licensed to Buyer by Seller under an Agreement.
- 3. Prices.** (a) Proposals for Goods, Services and/or Software expire thirty (30) days from the date thereof, (b) Prices for Services are based on normal business hours. Seller reserves the right to charge Buyer overtime rates for Services rendered outside normal business hours, holiday pay for working on holidays and travel time. If (i) the prices are Seller's list prices, (ii) no fixed (no unmodifiable) price has been stipulated, and, moreover, (iii) Seller's delivery is supposed to be effected more than 12 weeks after the contract formation date, Seller's list prices being current upon delivery shall apply. Any discounts agreed based on previous list prices shall be applied in the agreed amounts (unaltered) to the price being current upon delivery. (c) Seller's price does not include any statutory value-added tax or other taxes which may now or hereafter be applicable. Buyer agrees to pay or reimburse any such taxes which Seller or its suppliers are required to pay or collect. If Buyer is exempt from the payment of any tax or holds a direct payment permit at the time of the placement of order, Buyer shall provide Seller a copy, acceptable to the relevant governmental authorities of any such certificate or permit. (d) Seller's price excludes customs, duties and other similar fees which may not or hereafter be applicable. Buyer agrees to pay or reimburse any such customs, duties and other fees which Seller or its suppliers are required to pay or collect. Any duties, fees, taxes, other charges or exactions on the Goods payable to any government or other entity are the sole responsibility of the Buyer. Seller's price includes standard packaging for shipment by truck, unless expressly stated otherwise in the Seller Documents. Any change after the proposal date in such rates, or additional packaging required by Buyer or required to transport the Goods or Software via another mode of transportation, shall be paid to Seller in addition to the quoted price.
- 4. Payment.** (a) All payments are due in full within 14 days upon delivery and receipt of the invoice without offset by Buyer. (b) Seller has no obligation to ship any Goods to Buyer or to complete future milestones until Buyer is current on all payments due. (c) If in the judgment of Seller, the financial condition of Buyer at any time prior to shipment does not justify the terms of payment originally specified, Seller may require payment in advance or payment security satisfactory to Seller. If shipment is delayed by Buyer, all payments shall become immediately due and payable on the date Seller is prepared to ship. Delays in shipment or nonconformities in any installments delivered shall not relieve Buyer of its obligation to accept and pay for remaining installments. (d) Buyer shall be automatically deemed in default upon expiration of the applicable period for payment without the need for a default notice to be issued. During any period of default, the price shall bear interest at the applicable statutory rate for default interest. Seller reserves the right to claim additional damages for default.
- 5. Changes.** (a) Every change order shall reflect modifications to the Agreement, the delivery schedule and the price. A change order is not binding on either party unless mutually agreed to in writing. Seller has no obligation to perform any changes until the change order is mutually agreed in writing. (b) Seller may make such changes in the Goods, Services and/or Software as it deems necessary, in its sole discretion, to conform the Goods, Services and/or Software to the applicable specifications. If Buyer objects to any such changes, Seller shall be relieved of its obligation to conform to the applicable specifications to the extent that conformance may be affected by such objection.
- 6. Delivery.** (a) Goods are delivered EXW: Seller's facility (Incoterms 2020). (b) Buyer shall be responsible for any and all demurrage, detention, customs broker and freight forwarder fees, warehouse and terminal charges, insurance, inspection, storage, special notifications, and special equipment/handling charges shall be at the Buyer's additional expense unless otherwise agreed in writing by Seller. (c) Unless a fixed performance time was expressly agreed, delivery dates are estimates only, and are contingent upon Buyer's timely approvals and delivery by Buyer of any documentation required for Seller's performance hereunder. If Seller defaults on providing Goods or Services and/or Software or they become impossible to provide for whatever reason, any liability on the Seller's part shall be limited to damages in accordance with Section 12 of these Terms. Delivery times shall be automatically extended as needed to resolve any technical matters between the parties with respect to the delivery, installation or use of the Goods and/or Software. (d) If the scheduled delivery (pick-up) of Goods, Services and/or Software is delayed by Buyer, Seller may at its option (i) store in its facility or move the Goods and/or Software to storage, at Buyer's sole cost, expense and risk, or (ii) ship the Goods to Buyer at Buyer's facility and at Buyer's cost, and demand that Buyer take delivery of the Goods. (e) Seller may make partial deliveries.
- 7. Title & Risk of Loss.** Risk of loss for the Goods shall transfer to Buyer upon delivery of the Goods to the Buyer or pick-up of the Goods by the Buyer. Until payment of Seller's current and future claims arising from the Agreement in full, Seller reserves the ownership to the Goods. Buyer shall hold the Goods subject to the reservation of title for Seller at no charge. Buyer must treat them with due care and sufficiently insure them at its own expense and at their reinstatement value. Goods which are subject to the

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reservation of title may neither be pledged to third parties nor transferred by way of security. Buyer shall inform Seller in writing without delay if and to the extent goods belonging to Seller are seized by third parties. Buyer is authorized to resell and/or adapt the Goods which are subject to a retention of title in the ordinary course of business. If there are justified doubts as to the ability of Buyer to make payment or as to his creditworthiness, Seller is entitled to prohibit the resale or the processing of the Goods which are subject to a reservation of title and to request their return at the expense of Buyer. Claims against third parties arising from the resale of the Goods are hereby assigned to Seller by way of security in advance by Buyer. Seller accepts this assignment. Buyer remains authorized to collect payment in addition to the Seller. Seller agrees not to collect the assigned claim as long as Buyer complies with his payment obligations towards Seller, does not default on payment, no application for opening of an insolvency proceeding has been filed and there is otherwise no deficiency in Buyer's performance capacity. If this is however the case, Seller can request that Buyer discloses to Seller the assigned claims and the debtors thereof, provides all information necessary for the collection, provides the relevant documents and gives notice of the assignment to the debtors (third parties).

- 8. Buyer's Obligations.** (a) Buyer must provide required inputs and approvals on a timely basis. Buyer must complete site preparation work prior to shipment of the Goods and/or Software and performance of the on-site acceptance test, if applicable. Seller will not be liable for any delays caused by Buyer's failure to complete its site preparation obligations. (b) With respect to all of the Buyer's tools, equipment, material, or other property such as parts and test samples that are used in the design, assembly, manufacture, or testing of the Goods and/or Software (collectively "Buyer's Property") provided to Seller, Buyer agrees that Seller shall have the right to use Buyer's Property free of charge, and if Buyer requires return or scrap of Buyer's Property, it will be at Buyer's direction and expense. Buyer must timely provide a sufficient number of test samples that meet the agreed upon specification in connection with the Goods, Services and/or Software being purchased by Buyer. If there are too few test samples or the test samples do not meet the agreed upon specifications, Seller may, in its sole discretion and at Buyer's sole cost and expense: 1) require Buyer to submit a sufficient number of test samples or to provide test samples that meet the specifications; 2) create additional test samples, or rework / modify existing test samples to meet the specifications; 3) be released from every obligation to test the Goods and/or Software, accelerate payment in full for the Goods, Services and/or Software then owing to Seller, and ship the Goods and/or Software as-is upon receipt of payment in full; or 4) terminate the Agreement for cause, whereupon Seller shall be entitled to receive cancellation charges set forth in Section 17 below. (c) Notwithstanding any other provision contained herein or any other obligation of Buyer hereunder, Buyer, upon acceptance of Goods, Services and/or Software that are the subject of these Terms, warrants that Buyer, its employees, agents, customers, representatives, successors and assigns are industrial users of such Goods, Services and/or Software and possess the knowledge and expertise to use the same in accordance with (i) accepted industry standards, (ii) all applicable laws, (iii) prudent safety practices and (iv) operating manuals, safety data sheets, warning labels and other written instructions provided by Seller, if any. Buyer agrees that it has an independent duty to familiarize itself with and keep informed of any safety and/or health hazards to persons and/or property involved in handling and using such Goods, Services and/or Software. Buyer shall advise its employees, customers, agents, distributors, consultants, independent contractors and others who may foreseeably handle or use such Goods, Services and/or Software of any hazards. (d) Buyer agrees to indemnify Seller against all liabilities, and damages, including reasonable attorneys' fees, resulting from claims (unless finally determined to be the result of the gross negligence or willful misconduct of Seller) that arise from (i) use or handling of the Goods, Services and/or Software by Buyer or any third party, whether or not the Goods, Services and/or Software are combined with any other materials, substances or equipment or are used in any manufacturing process; (ii) failure by Buyer to disseminate safety and health information as required above; and (iii) failure of Buyer to comply with Section 25.
- 9. Inspection, Testing and Acceptance.** (a) Unless acceptance has been expressly agreed, Buyer has an obligation to inspect delivered Goods promptly after they are delivered to Buyer or the third party nominated by it, and promptly report any defects. Statutory law and, in addition, the terms of this Section 9 shall apply to Goods inspections and defect notifications. The requirement of prompt notification shall be deemed satisfied if a notice of defects is sent, at the latest, within five (5) working days of delivery or, if the defect was not evident at the time of the Goods' inspection, at the latest within three (3) working days after the defect is identified. Seller assumes no warranty and accepts no other liability for defects if Buyer has failed to properly inspect the goods and/or to report defects. (b) If the Agreement provides for factory acceptance testing, Seller shall notify Buyer when Seller will conduct factory testing for compliance to Seller's specifications prior to shipment. Unless Buyer states specific objections in writing within two (2) days after completion of factory acceptance testing, completion of the factory acceptance test constitutes Buyer's acceptance of the Goods and/or Software and Buyer's authorization for shipment. If the Agreement provides for factory acceptance testing and Buyer instructs Seller to ship the Goods and/or Software without completing the factory testing, Buyer has i) waived the factory acceptance test, ii) accepted the Goods, Services and/or Software as-is through such waiver; iii) accelerate payment in full for the Goods, Services and/or Software then owing to Seller, and iv) ship the Goods and/or Software as-is upon receipt of payment in full. (c) If the Agreement provides for site acceptance testing, testing will be performed by Seller personnel at Buyer's site to verify compliance to Seller's specifications. Completion of site acceptance testing constitutes final acceptance of the Goods, Services and/or Software. If, through no fault of Seller, site acceptance testing is not completed within thirty (30) days after arrival of the Goods at the site, the site acceptance test shall be deemed completed. Upon completion or deemed completion of on-site acceptance testing, any final payment is immediately due and owing to Seller.
- 10. Remedies.** (a) Warranty Period. The warranty period for Goods and Software by Seller is 12 months from delivery. The warranty period for Services is 12 months from completion of Services. Buyer may not bring any claims based on defective Goods, Software or Services after expiry of the warranty period. (b) Remedy. Unless otherwise stipulated in the Agreement, statutory law shall apply to Buyer's rights in the event of physical and legal defects. If the Goods are defective, Seller has a right to subsequent performance, which, at Seller's election, may take the form of remedying the defect (repair) or delivering conforming Goods (replacement). In the event of replacement, Buyer shall have to return to Seller the Good to be replaced in accordance with applicable law. Replaced Goods shall become Seller's property. (c) Exceptions. Seller has no liability under this Section 10 for any of the following: (i) components that get consumed and replaced on a regular basis through normal use and operation of the Goods, including but not limited to contact tips, weld wire, conduit, etc.; (ii) Buyer's failure to provide Seller working access to the nonconforming Goods

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including disassembly and re-assembly of non-Seller supplied equipment, and for shipment to or from any repair facility - or the opportunity to examine the Goods - prior to expiration of the warranty period; (iii) improper installation, repair or alteration by Buyer or a third party not under Seller's control and supervision; (iv) misuse, negligence or accident; (v) Buyer's failure to meet its obligations in Section 8; (vi) failure as a result of materials provided by or a design specified by Buyer; (vii) failure as a result of ordinary wear and tear; (viii) failure as a result of Buyer's failure to comply with the law; and/or (ix) any failure submitted after expiration of the applicable warranty period. (d) Customer Assistance Policy. The business of Seller is manufacturing and selling high quality welding equipment, automated welding systems, consumables, and cutting equipment. Our challenge is to meet the needs of our customers, who are experts in their fields, and to exceed their expectations. On occasion, buyers may ask Seller for information or technical information about their use of our products. Our employees respond to inquiries to the best of their ability based on information and specifications provided to them by the customers and the knowledge they may have concerning the application. Our employees, however, are not in a position to verify the information provided or to evaluate the engineering requirements for the particular weldment, or to provide engineering advice in relation to a specific situation. Accordingly, Seller does not warrant or guarantee or assume any liability with respect to such information or communications. Moreover, the provision of such information or technical information does not create, expand, or alter any warranty on our products. Any express or implied warranty that might arise from such information or technical information which has been given after the relevant sale, including any implied warranty of merchantability or any warranty of fitness for any customers' particular purpose or any other equivalent or similar warranty is specifically disclaimed. Seller is a responsive manufacturer, but the definition of specifications, and the selection and use of specific products sold by Seller is solely within the control of, and remains the sole responsibility of, Buyer.

- 11. Patent Indemnity.** (a) By Seller. (1) Seller agrees to defend any suit, proceedings or counterclaim against Buyer for the infringement of any patent by: (1) any Goods manufactured by Seller, of whatever kind, or any parts thereof, made to Seller's design or specifications, but only in the form, state or condition supplied under the Agreement; or (2) any use of such Goods manufactured by Seller where the Goods constitute a material part of any patented method of such patent and are not a staple article or commodity of commerce suitable for substantial non-infringing use. Such defense is conditioned only if Seller is: (1) notified promptly in writing of any charges of infringement; (2) given authority to direct and control the defense of such charge or suit; and (3) furnished such information and assistance, at Seller's expense, as may be necessary for such defense. Seller shall pay all costs and damages awarded therein against Buyer. These Terms do not apply to the combination of the Goods, Services and/or Software supplied under the Agreement with goods, services and/or software not supplied by Seller, nor to any process involving such combinations. If at any time, such Goods or any part thereof, or their use, are considered by the Seller to constitute infringement, Seller may, at its own expense: (1) procure for the Buyer the right to continue using such Goods; (2) modify them so they become non-infringing; or (3) remove them and refund the purchase price and the transportation costs thereof, if any. Claims for damages are subject to Section 12. (b) By Buyer. If Buyer supplies an order request to Seller for a product and/or its own specifications for the same, then Buyer represents that Buyer has ownership rights to, and/or have a license to have such product built for Buyer, and Buyer agrees to defend, indemnify and hold harmless Seller, its parent company, agents and/or affiliates from and against any claims, suits, proceedings (whether in court or out of court) of all types whatsoever against, and shall indemnify Seller, its parent company, directors, officers, employees, shareholders, affiliates and agents for all costs, damages, judgments, settlements and compromises (including incurred costs and attorneys' fees) for the infringement or claimed infringement of any patent, trademark, service mark, trade secret, copyright, moral rights or other claims of violation of intellectual property anywhere in the world by: (1) Buyer's request that Seller reproduce, manufacture, modify, utilize or incorporate Buyer's product idea and/or specifications into the Agreement; or (2) any misrepresentation by Buyer that it had ownership rights and/or a license to have Goods built for it when such representation was not accurate and/or resulted in claims against Seller based upon Seller's completion of a project for Buyer under such misrepresentation. Buyer shall pay all costs, damages, judgments, settlements and compromises (including incurred costs and attorneys' fees) arising out of or related to such claims, suits, proceedings (whether in court or out of court) against Seller, its parent company, directors, officers, employees, shareholders, affiliates and agents.
- 12. Limitation of Liability.** a) In no event shall Seller, its parent, subsidiaries and affiliates be liable for special, indirect, incidental or consequential damages, whether in contract, warranty, tort, negligence, strict liability or otherwise, including, but not limited to, loss of profits or revenue, loss of use of the goods, services and/or software or any associated equipment, cost of capital, cost of substitute equipment, facilities or services, downtime costs, delays, and claims of customers of the Buyer or other third parties for any damages. In no event, regardless of cause, shall Seller be liable for the acts or omissions of Buyer or third parties. (b) The aforementioned limitations of liability do not apply, if (i) Seller fraudulently concealed a defect; (ii) Seller gave explicitly a guarantee for the properties and condition of the Goods or accepted a procurement risk; (iii) Seller or one of Seller's legal or vicarious agents committed a willful or negligent breach of duty, which resulted in injury to life, body or health; (iv) Seller or one of Seller's legal or vicarious agents committed a willful or grossly negligent breach of duty, which resulted in other loss or damage; (v) loss or damage arises from the negligent breach of material contractual duties, and such loss or damage is not already covered by (i) to (iv) or (vi) below; material contractual duties are duties which must necessarily be fulfilled to enable the proper performance of the contract, and on whose compliance the customer would usually rely and be entitled to rely. However, in such cases Seller's liability shall be limited to the loss or damage that was reasonably foreseeable at the time the contract was entered into; or (vi) Seller is liable under the German Product Liability Act (*Produkthaftungsgesetz*).
- 13. Software License.** (a) Seller owns all rights in or has the right to sublicense all of the Software, if any, to be delivered to Buyer under the Agreement. As part of the sale made hereunder Buyer hereby obtains a limited license to use the Software, subject to the following: (i) The Software may be used only in conjunction with Goods sold by Seller; (ii) The Software shall be kept strictly confidential; (iii) The Software shall not be copied, reverse-engineered, or modified; (iv) The Buyer's right to use the Software shall terminate immediately when the specified Goods are no longer used by the Buyer or when otherwise terminated for breach, hereunder; and (v) the rights to use the Software are non-exclusive and non-transferable, except with Seller's prior written consent. (b) Nothing in the Agreement shall be deemed to convey to Buyer any title to or ownership in the Software or the intellectual property contained therein in whole or in part, nor to confer upon any person who is not a named party to the Agreement any right or remedy

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under or by reason of the Agreement. In the event of termination of this License, Buyer shall immediately cease using the Software and, without retaining any copies, notes or excerpts thereof, return to Seller the Software and all copies thereof and shall remove all machine readable Software from all of Buyer's storage media. Seller does not warrant that the functions contained in the Software will operate in combinations which may be selected for use by the Buyer (including combinations with Buyer-supplied software or interfacing), or that the Software is free from errors in the nature of what is commonly categorized by the computer industry as "bugs". Buyer may not engage in unauthorized modification of the Software.

- 14. Data Security/Data Access.** Some Goods and/or Software may require internet access for operation. Buyer is responsible for obtaining internet access and payment for all usage charges related thereto. If Seller or Buyer requires access to the other's computer systems to perform tasks that fall under the scope of an Agreement, access shall be granted only to the extent necessary to fulfill any required tasks. Buyer represents that it has developed and implemented and covenants that it will maintain effective information security policies and procedures that include administrative, technical and physical safeguards designed to: (a) ensure the confidentiality, security, integrity and availability of its computer systems and information; (b) protect against threats or hazards to their computer systems and the confidentiality, security, integrity and availability of information; and (c) protect against unauthorized access to its computer systems and information. Buyer shall promptly notify Seller of any breach of confidentiality or disclosure of confidential information, or a breach of information security policies or procedures, or unauthorized access to its computer systems. Notice shall be provided no later than twenty-four (24) hours upon discovery of a breach. Buyer agrees that it shall be responsible for all acts and omissions with respect to the unauthorized access to its computer systems and information, including the acts and omissions of its employees, agents and independent contractors. Buyer agrees to indemnify and hold Seller harmless, its parent company, directors, officers, employees, shareholders, affiliates and agents from and against any and all third party claims of damages, liabilities, expenses, fines and losses of any type, including but not limited to reasonable attorneys' fee, in connection with or arising out of, in whole or in part, of its or its representative's breach of computer system security.
- 15. Inventions and Information.** All materials, and any inventions (whether or not patentable), works of authorship, trade secrets, ideas, concepts, trade names and trade or service marks created or prepared by Seller under the Agreement, together with any and all intellectual property rights therein (collectively "Inventions"), shall belong exclusively to Seller. Buyer hereby assigns the worldwide right, title and interest in and to the Inventions to Seller. Seller shall have the right, at its option and expense, to seek protection of the Inventions by obtaining patents, copyright registrations, and filings related to proprietary or intellectual property rights. Buyer agrees to execute, and to cause its employees and/or agents to execute, such documents, applications, and conveyances and to supply information as Seller shall request, in order to permit Seller (at Seller's expense) to protect, perfect, register, record and maintain its rights in the Inventions and effective ownership of them throughout the world. These obligations survive the expiration or termination of the Agreement. Buyer shall not, without Seller's prior written consent, copy or disclose such Inventions to a third party. Such Inventions shall be used by Buyer solely for the operation or maintenance of the Goods, Services and/or Software and not for any other purpose, including the duplication thereof in whole or in part.
- 16. Confidentiality.** "Confidential Information" means all information, know-how, trade secrets or other material disclosed by Buyer to Seller and Seller to Buyer. Both Buyer and Seller shall treat each other's Confidential Information as confidential; shall not use such Confidential Information except in connection with the Agreement; shall not disclose such Confidential Information to any third party who has not executed an agreement to maintain the confidentiality of the Confidential Information with restrictions at least as restrictive as those set forth herein; and shall not reverse-engineer Seller's Goods, Services and/or Software. All technical, business, sales, distribution channel, financial, marketing, pricing, planning, competitor information and the lists of customers who have purchased Goods from Seller are considered Seller's Confidential Information. Confidential Information does not include information that is: (i) generally known and available in the public domain; (ii) was known to recipient prior to the date of disclosure; (iii) was received from a third-party without any obligation of confidentiality; or (iv) was independently developed without reliance on Confidential Information.
- 17. Termination for Default.** (a) Either party may terminate the Agreement for cause if the other party is in material breach of the Agreement and such breach is not cured within 30 days after the non-breaching party issues written notice to the breaching party. Seller may terminate the Agreement immediately for cause if Buyer fails to comply with its obligations under Section 25. No party may terminate the Agreement for convenience (i.e. without cause). (b) Effect of termination. If the Agreement is terminated due to Buyer's breach, Buyer shall pay Seller 100% of the sale price under the Agreement. If the Agreement is terminated for any other reason, Buyer shall pay Seller the sale price of the Goods, Services and/or Software based on percentage of work completed as of the effective date of termination, plus costs incurred from vendors as a result of early termination. (c) Upon receipt of payment, Seller will deliver Goods, Services and/or Software to Buyer, or scrap the same at Buyer's direction.
- 18. Insurance.** (a) Buyer shall maintain general liability insurance including coverage in an amount no less than two million (EUR 2,000,000) Euros per claim for property damage, bodily injury, and contractual liability. Until Seller is in receipt of full payment by Buyer for the Goods, Services and/or Software, Buyer shall maintain insurance in an amount that is sufficient to cover the contract price of the Goods, Services and/or Software. Further, Buyer shall maintain insurance in an amount that is sufficient to cover the cost of any Buyer's Property in Seller's possession for the purposes of providing Goods, Services and/or Software until such time that Buyer's Property is returned to Buyer. Unless otherwise agreed to in writing by Buyer and Seller, Seller shall not maintain insurance on Buyer's Property and will not assume any liability for destruction or loss of the same. (b) Nuclear Insurance - Indemnity. For applications in nuclear projects, Buyer and its customer shall have and maintain complete insurance protection against liability and property damage resulting from a nuclear incident to and shall indemnify Seller, its parent company, directors, officers, employees, shareholders, affiliates, agents, subcontractors, suppliers and vendors against all claims resulting from a nuclear incident.
- 19. Force Majeure.** Seller shall not be in default for failure to perform and shall not be liable for loss, damage, detention or delay when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, terrorism, sabotage, power, explosions, epidemics, pandemics, civil disturbances, strike, labor difficulties, acts or

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omissions of any governmental authority, compliance with government laws or regulations, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, raw materials, or manufacturing facilities from usual sources, equipment failure, or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes.

Upon the occurrence of any event or circumstance referenced above, Seller shall have the right to allocate Goods, Services and/or Software among its customers in its sole discretion. This Section supplements, and does not replace, any remedies available to Seller under applicable law.

- 20. Assignment.** Buyer cannot assign the Agreement without Seller's prior written consent. Seller can assign the Agreement, in which case Buyer has the right to terminate the Agreement without cause within 30 days after Buyer has become aware of the assignment.
- 21. Entire Agreement.** The Agreement constitutes the entire agreement between Seller and Buyer with respect to the Goods Services and/or Software covered by the Agreement, and supersedes any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof will be of any effect unless mutually agreed to in writing.
- 22. Waiver.** In the event of any default by Buyer, Seller may decline to ship Goods or Software or to provide Services. If Seller elects to continue shipping or otherwise fails to insist upon strict compliance with the Agreement, Seller's actions will not constitute a waiver of Buyer's default or any other existing or future default, or affect Seller's legal remedies.
- 23. Severability.** If any provision of the Agreement is held to be unlawful or unenforceable, the remaining provisions shall remain in effect. Where provisions have been held to be void or invalid, the provisions of the Agreement shall be primarily determined by the relevant statutory provisions. Only in other cases, and to the extent that construction of the Agreement culminating in implied terms does not take precedence or is impossible, the parties shall agree on a valid provision that most closely reflects the commercial intent of the void or invalid provision.
- 24. Survival.** Any provision of the Agreement which, by its nature, extends beyond the completion, termination or expiration of any sale of Goods, Services and/or Software, will remain in effect until fulfilled
- 25. Compliance with Laws.** Nothing contained herein shall be construed as imposing responsibility or liability upon Seller for obtaining any permits, licenses or approvals from any agency required in connection with the supply, erection or operation of the Goods, Services and Software. In no event shall Seller be responsible for liability arising out of use of the Goods and/or Software in association with other equipment of Buyer, the alteration of the Goods and/or Software by any party other than Seller, or the violation of any laws relating to or caused by Buyer's design, location, operation, or maintenance of the Goods and/or Software.

(a) Buyer represents that it is familiar with the provisions and restrictions contained in German and EU anti-corruption laws, the principles of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Convention) and the U.S. Foreign Corrupt Practice Act (FCPA). Buyer shall comply with German and EU anti-corruption laws, the OECD Convention and the FCPA in case of any export, resale or re-export of Seller's Goods. Buyer agrees that it will not, in the course of its business with Lincoln, offer, promise, give demand, seek or accept, directly or indirectly, any gift or payment, consideration or benefit in kind which would or could be construed as an illegal corrupt practice. (b) Buyer represents that it is familiar with the requirements and restrictions of German, EU and U.S. export control laws, German EU and U.S. sanction laws, German EU and U.S. anti-boycott laws, as well as with any United Nations sanctions (collectively, "Export Control and Economic Sanctions Laws"). Buyer agrees to comply with all such laws and regulations in any export, resale, or re-export of Seller's Goods. By purchasing Goods from Seller, Buyer represents that Buyer is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National as defined in the Export Control and Economic Sanctions Laws. (c) Buyer agrees to assume sole responsibility for obtaining licenses to export or re-export as may be required, and to cooperate fully with Seller in any official or unofficial audit or inspection that relates to Export Control and Economic Sanctions Laws. Seller and Buyer are committed to fair, honest and ethical business practices. Buyer acknowledges that Seller has adopted a Code of Corporate Conduct and Ethics (a copy of which is available on Seller's website at www.lincolnelectric.com) and Buyer agrees to conduct itself in its dealings with or on behalf of Seller in a manner that is consistent with and facilitates compliance with Seller's Code.

26. Disputes and Governing Law. In the event of any controversy, claim or dispute arising out of or relating to the Agreement (a "Dispute"), Seller and Buyer shall seek to resolve the matter amicably through diligent, good faith, mutual discussions to be initiated as promptly as possible after a Dispute arises. If the Dispute cannot be resolved through mutual discussions as set forth above, the place of exclusive (and international) jurisdiction for any and all disputes arising out of or in connection with the Agreement shall be Frankfurt am Main. Seller may also sue Buyer at Buyer's registered office. The Agreement and any transactions arising therefrom shall be governed and construed under the laws of the State of the Federal Republic of Germany excluding any conflict or choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable to the Agreement or any transactions created thereby or construed therewith.