

**ARENS CONTROLS COMPANY, LLC**  
**TERMS AND CONDITIONS OF SALE**

1. Agreement.

1.1. Subject to the terms and conditions set forth herein ("Terms of Sale"), Arens Controls Company, LLC ("Arens Controls") agrees to sell or provide such goods, products, parts, accessories and/or services, including any applicable documentation with respect thereto (collectively, "Goods"), as are identified and/or described in Arens Controls sales quotations, sales order acknowledgements, change orders and/or invoices (collectively, "Sales Order Documentation") issued by Arens Controls to its customer identified in any such Sales Order Documentation ("Buyer").

1.2. These Terms of Sale shall become binding upon Arens Controls and Buyer upon the earlier of (i) Arens Controls issuance of a sales order acknowledgement to Buyer or (ii) Arens Controls shipment of Goods to Buyer, whether in whole or in part.

1.3. The Terms of Sale are expressly limited to the terms and conditions set forth herein unless expressly modified with reference hereto in any of the Sales Order Documentation. Any and all terms set forth on Buyer's purchase order or otherwise proposed by Buyer are hereby objected to and shall be void unless expressly agreed to in a writing signed by Arens Controls. These Terms of Sale and the Sales Order Documentation into which these Terms of Sale have been incorporated contain the entire agreement of the parties ("Agreement") and all proposals, negotiations, representations or agreements made or entered into prior to or contemporaneously herewith, whether oral or in writing, are expressly superseded.

2. Prices, Taxes and Clearances.

2.1. Prices are FOB Arens Controls plant of manufacture unless otherwise specified in writing by the parties. Prices are stated in United States Dollars and payment shall be made in United States currency. Prices do not include sales, use, excise or any similar taxes. Any tax or other governmental charge upon the production, sale, shipment, or use of the Goods which Arens Controls is required to pay or collect from Buyer shall be paid by Buyer to Arens Controls unless Buyer furnishes Arens Controls with a tax exemption certificate acceptable to the applicable taxing authority. Buyer shall be responsible for obtaining any necessary governmental clearances, including any import and/or foreign exchange license, which may be required by the federal, any state or any foreign government, or any subdivision or agency of any thereof.

3. Payment.

3.1. Payment of the purchase price for the Goods (including any applicable sales or use tax) is, unless otherwise indicated, due and payable thirty (30) days from the date of invoice with respect thereto. Thereafter, the unpaid balance of the total purchase price shall bear interest at the rate of one and one-half percent (1.5%) per month until paid in full.

3.2. Invoices shall be dated as of the date of shipment. However, if, in the opinion of Arens Controls, the financial condition of

buyer becomes impaired or unsatisfactory prior to payment in full with respect to the amounts due Arens Controls under the Agreement, Buyer shall, if required by Arens Controls to do so, make payment in 10 days, make cash payments or furnish satisfactory security before any further deliveries are made. Failure or refusal by Buyer to comply with the requirements that Arens Controls may impose upon Buyer in accordance with the foregoing shall entitle Arens Controls to suspend deliveries under the Agreement during such failure or refusal or, alternatively, to terminate the Agreement. Any such action by Arens Controls shall not in any way prejudice Arens Controls claim for damages or Buyer's obligations to pay for Arens Controls Goods already delivered.

4. Risk of Loss, Title and Shipment.

4.1. Risk of damage, destruction or loss, and title to the Goods, passes to Buyer upon delivery to the designated carrier, and upon such delivery no damage, destruction or loss of the Goods shall release Buyer from its obligations and liabilities to Arens Controls under the Agreement. Arens Controls will ship in accordance with instructions supplied by Buyer, but if Buyer fails to furnish such instructions, Arens Controls will select what is, in its opinion, the most satisfactory manner of shipping and will designate the carrier to be used for the shipment. Unless otherwise mutually agreed, shipping dates are approximate and based upon prompt receipt of all necessary information. Any prepayment by Arens Controls of freight charges shall be for the account of Buyer and shall be paid by Buyer with the total purchase price for the Goods.

5. Force Majeure.

5.1. Arens Controls shall not be liable for any delay in delivery, or failure to deliver, due, directly or indirectly, to any cause beyond Arens Controls reasonable control, including, but not limited to, acts of God, fires, floods, strikes or other labor disputes, accidents, machinery or equipment breakdowns, acts of sabotage or terrorism, riots, wars, inability to obtain raw materials, components, fuel or supplies, delay in transportation or lack of transportation facilities, or any restrictions or delays imposed by or caused by policies of any federal, state, foreign or other governmental legislation, rules, regulations or orders. In the event of any such delay or failure, the Agreement shall not terminate but the required date of shipment of the Goods shall be extended for a period of time equal to the time lost by reason of any such failure or delay.

6. Cancellation.

6.1. Buyer may only cancel the Agreement with Arens Controls consent and upon the payment to Arens Controls of (i) the full purchase price for all Goods ordered by Buyer and ready for delivery, and (ii) with respect to all other Goods ordered by Buyer, the lesser of (x) the purchase price for such Goods and (y) a reasonable profit with respect to such Goods together with all costs incurred by Arens Controls in connection with producing such Goods, including, without limitation, reasonable overhead plus the costs incurred by Arens Controls with respect to all special dies, tools, patterns and fixtures, labor and other expenses in connection with Arens Controls performance under the

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Agreement, all such costs to be determined in accordance with generally accepted accounting principles. Solely for the purposes of this Section and only with respect to those cancellations caused by an increase in the purchase price of Goods to be purchased pursuant to the Agreement, the purchase price for such Goods to be used in calculating cancellation charges payable under the Agreement shall equal the purchase price in effect immediately prior to the proposed price change. Upon Buyer's request and after the payment by Buyer of all cancellation charges to be paid hereunder, Arens Controls shall make available for shipment to Buyer (which shipment shall be subject to these Terms and Conditions) all completed and partially completed Goods produced pursuant to the Agreement; provided, however, Arens Controls may, at its sole option, accept any cancellation on a no charge basis, retaining in its possession any materials acquired for the processing of the canceled order.

7. Inspection and Acceptance. Upon delivery of the Goods to Buyer's designated shipping destination, Buyer shall promptly inspect the Goods for conformance to the Agreement. Any claim for shortage must be made in writing and received by Arens Controls within ten (10) days after Buyer's receipt of the Goods along with documentation supporting the claim. All other claims, including claims for alleged defective products, to the extent they are not disclaimed by Arens Controls under Section 8 hereof, must be made by Buyer in writing and received by Arens Controls within the applicable time period specified in Section 8.1(ii) below. All claims not made in writing, whether or not received by Arens Controls within the applicable time period specified in Section 8.1(ii) below, shall be deemed waived.

8. Limited Warranties and Limitations Upon Damages and Remedies.

8.1. (i) Subject to Section 8.1(ii) below, Arens Controls makes to buyer the following sole and exclusive warranties:

- (a) at the time of shipment by Arens Controls, the Goods sold or provided under the Agreement that are manufactured by Arens Controls conform to the description and specifications set forth in the applicable Sales Order Documentation; and
- (b) at the time of shipment by Arens Controls, the Goods sold or provided under the Agreement that are manufactured by Arens Controls are free from defects in material and workmanship under normal use and correct application.
- (c) Arens Controls warranty is for a period of 1 year, and begins from date of shipment from Arens to the original purchaser.

This warranty does not include accessories, parts or equipment sold hereunder that are manufactured by someone other than Arens Controls.

(ii) Every claim by Buyer against Arens Controls for breach of warranty with respect to the Goods shall be deemed waived by Buyer unless written notice thereof is received by Arens Controls within fifteen (15) days after discovery, but in any event notice of the claim must be received by Arens Controls:

8.2. If Arens Controls breaches either of the warranties set forth in Section 8.1(i) above, and written notice thereof is received by Arens Controls from Buyer within the applicable time period specified in Section 8.1(ii) above, Buyer's sole and exclusive remedy and Arens Controls only obligation shall be, as Arens Controls in its sole and exclusive judgment shall determine, the replacement of the nonconforming Goods, or an adjustment to the purchase price for the nonconforming Goods or the repair of the nonconforming Goods. All transportation charges related to replacement or repair of Goods shipped to Arens Controls plant or facility (or other place at Arens Controls direction) shall be prepaid by Buyer. Arens Controls shall be responsible for reasonable transportation charges back to Buyer for Goods that have been replaced or repaired by Arens Controls. Any replacement Goods or repaired Goods shall be subject to these Terms and Conditions.

8.3. THE EXPRESS WARRANTIES SET FORTH HEREIN ARE THE ONLY WARRANTIES APPLICABLE TO THE SALE OF GOODS BY ARENS CONTROLS TO BUYER PURSUANT TO THE AGREEMENT, AND THEY EXCLUDE ALL OTHER EXPRESS, ORAL OR WRITTEN WARRANTIES, AS WELL AS ANY WARRANTIES IMPLIED BY LAW WITH RESPECT TO THE GOODS, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOTWITHSTANDING ANY DISCLOSURE TO ARENS CONTROLS OF THE INTENDED USE OF THE GOODS.

8.4. Arens Controls will not be liable for and is not (and shall not be) responsible for any indirect, special or consequential damages under any circumstances, including, but not limited to, loss of life, personal injury, loss of income (business or personal), damage or loss (including any increased costs suffered or incurred by Buyer) resulting from Buyer's inability to use the Goods or Buyer's (or its customer's) inability to use any equipment, or any increased operating costs or loss of production or other costs incurred by Buyer (or any customer of Buyer) in removing, reinstating or repairing allegedly defective or nonconforming Goods, delay damages or any other such damages, whether arising from causes similar to or dissimilar to those enumerated (collectively, "Special Damages").

8.5. Arens Controls disclaims any liability for failure of performance or malfunction of the Goods supplied by Arens Controls pursuant to the Agreement which in Arens Controls opinion is the direct or indirect result of any action or inaction by Buyer or any party other than Arens Controls (including, without limitation, any customer of Buyer or other user of the Goods) including, without limitation, abuse, neglect, accident, improper installation, modifications or repairs not made by Arens Controls, incorrect or inappropriate use or application, failure to maintain, unsuitability or incompatibility with other products or equipment not supplied by Arens Controls, or the presence of non-recommended fluids or other contaminants.

8.6. Arens Controls warranties under Section 8.1(i) are void in the event that repairs or modifications of the Goods are made by anyone other than Arens Controls. Without limitation of

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the foregoing, Arens Controls assumes no responsibility for and shall have no obligations to Buyer on account of defects in any materials furnished by, or any faulty workmanship provided by, any party other than Arens Controls.

8.7. Arens Controls reserves the right to improve its products through changes in design or material without being obligated to incorporate such changes into products of prior manufacture. Buyer cannot rely on any such changes as proof of insufficiency or inadequacy of prior designs of the Goods or material contained in the Goods.

8.8. If Buyer grants to an end user of the Goods (or any other customer of Buyer) any warranty that is greater in scope or time period than the warranty and claims period stated herein, Arens Controls shall not be liable beyond the scope of the limited warranty, the claim period, the damages and the remedies provided for under this Section 8.

8.9. Solely to the extent transferable, Arens Controls assigns and transfers to Buyer the original manufacturer's warranty on Goods sold hereunder that are not manufactured by Arens Controls.

8.10. Notwithstanding any provision hereof which may be or appear to be to the contrary, in no event whatsoever shall Arens Controls liability in respect to any claim or action of any kind arising out of, in connection with, or resulting from the manufacture, sale, delivery, resale, use or repair of the Goods or component parts thereof or services rendered by Arens Controls pursuant to the Agreement, or any breach by Arens Controls of any term of the Agreement, exceed the price for the Goods or component part thereof or service which gives rise to such claim or action. Buyer assumes all other liability for any loss, damage or injury to persons or property arising out of, connected with or resulting from the use of the Goods, either alone or in combination with other products, including, without limitation, any "Special Damages" or any loss, damage or injury to Buyer (or to Buyer's employees or property or to the employees or property of any customer of Buyer or other user of the Goods) due to the acts or omissions of Buyer, its agents, employees or customers, in the installation, maintenance, use or operation of such Goods.

9. Compliance with Law. Arens Controls represents that Goods delivered or services performed by Arens Controls pursuant to the Agreement will comply with the Fair Labor Standards Act of 1938, as amended.

10. Federal Contract Requirements. In the event the Agreement is subject to any of the following requirements related to federal contracts, Arens Controls represents that its performance hereunder is in compliance with: (i) Executive Order 11246, including section 202; (ii) The Vietnam Era Veterans Readjustment Assistance Act of 1974; (iii) applicable worker's compensation requirements; and (iv) The Rehabilitation Act of 1973.

11. Indemnification; Intellectual Property. In the event any Goods to be furnished under the Agreement are to be made in accordance with drawings, samples or manufacturing specifications designated by Buyer, Buyer agrees to hold Arens Controls harmless from any and all damages, costs and expenses relating to any claim arising from the design, manufacture or use of such Goods or arising from a claim that such Goods furnished to Buyer by Arens Controls, or the use thereof, infringes upon any intellectual property rights, including, without limitation, Letters Patent or trade secrets, foreign or domestic, and Buyer agrees at its own expense to undertake the defense of any suit against Arens Controls brought upon such claim or claims. In the event any Goods to be furnished under the Agreement are solely the design of Arens Controls, Arens Controls agrees (subject to the last sentence of this Section) to hold harmless Buyer and its customers against damage awarded by a court of final jurisdiction in any suit or suits for the infringement of any intellectual property rights or the violation of any trade secrets by reason of the sale or use of such Goods furnished by Arens Controls under the Agreement. Buyer agrees to notify Arens Controls as soon as practicable of any charge or suit alleging any such infringement or violation, and agrees that the foregoing agreement by Arens Controls to indemnify shall not apply unless Arens Controls shall have been so notified and given the opportunity to take over the defense thereof, and further, such agreement to indemnify shall not apply if (i) the claimed infringement is settled without the consent of Arens Controls unless required by a final unappealable decree of a court of competent jurisdiction, or (ii) the infringement or violation results from the use of any Goods delivered pursuant to the Agreement in combination with a product not delivered thereunder where such infringement or violation would not have occurred from the use of the Goods alone delivered pursuant to the Agreement. Notwithstanding the foregoing, any obligation on Arens Controls part to indemnify Buyer under this Section 13 shall be limited solely in amount as provided for in Section 8.3(viii) above.

12. Proprietary Rights Reservations. All information of every kind and nature (except for such information as may be established to be in the public domain or which Buyer may establish to be the property of Buyer) related to the design, engineering, production, process, method, device, technique, formulas, plans, diagrams, drawings, compilations, patterns, tools, dies or fixtures in connection with or related to any component, device, material or other goods, products or services manufactured, provided or delivered pursuant to the Agreement are proprietary in favor of Arens Controls. Such information has been developed at great expense to Arens Controls and may contain trade secrets of Arens Controls. Buyer shall not reproduce, disclose, distribute or utilize same without Arens Controls prior express written consent (which consent may be granted or denied in Arens Controls sole discretion) or as required by judicial or governmental action and Buyer shall exercise reasonable care to hold such information in confidence.

13. Uniform Commercial Code; Arens Controls Security Interest. Until the entire purchase price for the Goods (as set forth in invoices from time to time issued to Buyer by Arens Controls) has been fully paid, Arens Controls shall have, to secure payment thereof, a continuing senior purchase money security interest in the Goods and proceeds therefrom. Upon a

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default under these Terms and Conditions, Arens Controls shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as from time to time in effect in the State of Illinois

14. Default.

14.1. The occurrence of any of the following events shall constitute Buyer's default under the Agreement: (i) Buyer's failure to make timely payment of any sum owing to Arens Controls under the Agreement; (ii) institution of any proceedings by or against Buyer under any bankruptcy, insolvency or similar law; (iii) appointment or application for a receiver for Buyer; (iv) an assignment by Buyer for the benefit of creditors; (v) failure of Buyer to furnish Arens Controls, upon Arens Controls request, with a written representation reaffirming Buyer's solvency (it being understood that the Agreement constitutes a representation by Buyer that it is solvent); or (vi) Arens Controls deems itself insecure with respect to performance by Buyer under the Agreement.

14.2. Upon Buyer's default hereunder, Arens Controls may, upon written notice to Buyer, cancel any remaining obligations of Arens Controls under the Agreement, in which case, at Arens Controls option:

(i) Buyer shall pay for all Goods delivered and for all Goods completed or in process pursuant to the Agreement;

(ii) With respect to any Goods for which Arens Controls has not received full payment, Arens Controls may stop delivery, retake (or retain) possession of such Goods wherever located (all without notice, demand or legal process) and retain, lease or resell (at public or private auction or otherwise) such Goods without accounting to Buyer and any payments received by Arens Controls from Buyer may be retained as liquidated damages;

(iii) Arens Controls may declare any outstanding balance immediately due and owing and collect same from Buyer without further notice or demand, together with interest at the maximum rate permitted by law; and/or

(iv) Refuse to deliver any Goods except on a cash basis.

15. Miscellaneous.

15.1. Arens Controls shall be an independent contractor with respect to Buyer in the performance of the Agreement. Neither party hereto, nor any respective agent of either party, shall be regarded as an agent or employee of the other. The Agreement shall not be construed to be a joint venture between the parties.

15.2. No waiver by Arens Controls of any default shall be deemed a waiver of any subsequent default unless the same shall be signed in writing by Arens Controls.

15.3. If any provision of the Agreement is held to be invalid under applicable law, such invalidity shall not affect the remaining provisions of the Agreement.

15.4. The provisions of the Agreement shall be binding upon and inure to the benefit of the respective representatives, successors and assigns of the parties hereto, including, without limitation, a debtor-in-possession; provided, however, that no interest herein may be assigned by Buyer without the prior written consent of Arens Controls.

15.5. No waiver, alteration or modification of the terms and conditions hereof shall be valid or binding upon Arens Controls unless made in writing and signed by Arens Controls.

15.6. This Agreement shall, for all purposes, be governed by and construed under the laws of the State of Illinois as applied to agreements between Illinois residents entered into and to be performed entirely within the State of Illinois. Without limitation of the foregoing, Buyer irrevocably agrees that all actions or proceedings in any way, manner or respect arising out of or from, or relating to, the Agreement shall be litigated only in Illinois state courts having situs in Cook County, Illinois or in the United States District Court for the Northeastern District of Illinois. Buyer consents and submits to the jurisdiction of any local, state or federal court located within said county and state, and waives any and all objections to jurisdiction that Buyer may have under the laws of the State of Illinois or the United States, including any claim or objection that any such court is an inconvenient forum. Further, Buyer hereby waives, to the fullest extent permitted by law, all rights to have any dispute or claim arising under the Agreement litigated before a jury.

16. Production and Test assets

16.1 Any production or test assets developed or produced to facilitate assembly or testing of the product, whether used in the validation or production processes are for the exclusive use by Arens and may not be transferred to any other location or supplier.