

# TERMS AND CONDITIONS

## Of Sale

### **1. APPLICABILITY.**

These Terms and Conditions of Sale (“Terms”) apply to the purchase by the buyer (“Buyer”) from Larson Tool & Stamping Co. (“Seller”) of products manufactured and sold by Seller (“Products”), each of which is identified in the accompanying Purchase Order (“Purchase Order”). These Terms and the Purchase Order comprise the entire agreement between the parties (collectively, the “Agreement”), except as hereafter modified by Seller in writing and signed by Seller’s representative (a “Superseding Agreement”). Buyer accepts these Terms by signing and returning Seller’s quotation, by sending a Purchase Order in response to the quotation, by submitting instructions to Seller to ship the Products or by accepting or paying for the Products. No additional or different terms, conditions or warranties other than those identified herein and no agreement or understanding, oral or written, in any way purporting to modify the terms and conditions, whether contained in Buyer’s Purchase Order or shipping release forms, or elsewhere, shall be binding on Seller unless hereafter made in writing, signed by Seller’s authorized representative, and specifically referencing these Terms and stating that it modifies them. Buyer is hereby notified of Seller’s express rejection of any terms inconsistent with these Terms or to any other terms proposed by Buyer. Neither Seller’s subsequent lack of objection to any terms, nor the delivery of the Products, shall constitute an agreement by Seller to any such terms. Trade custom, trade usage and past performance are superseded by these Terms and shall not be used to interpret these Terms.

### **2. PRICE; PAYMENT.**

a. All stated prices are exclusive of any taxes, fees, duties, and levies, however designated or imposed, including but not limited to value-added and withholding taxes that are levied or based upon the amounts paid under these Terms (collectively, “Taxes”). Any Taxes related to the Products purchased pursuant to these Terms are the responsibility of Buyer (excluding taxes based on Seller’s net income), unless Buyer presents an exemption certificate acceptable to Seller and the applicable taxing authorities. If possible, Seller will bill Taxes as a separate item on the Purchase Order presented to Buyer. In the event Seller is required to pay any such taxes or other charges, Buyer shall reimburse Seller therefor on demand. If any exemption certificate presented by Buyer is held to be invalid, then Buyer will immediately pay Seller the amount of the Tax and any penalties and interest related thereto.

b. All payment terms set forth in these Terms are subject to Seller's approval of Buyer's credit, in Seller's discretion; if such approval is withheld, payment will be due in advance of Seller's performance on the date set forth in the Purchase Order. Unless otherwise set forth in the Purchase Order, Buyer will pay all invoiced amounts within thirty (30) days following the date of invoice. Unpaid amounts will accrue interest at a rate equal to the lesser of one and one-half percent (1.5%) per month and the maximum rate permitted by applicable law, from the applicable due date until paid, plus Seller's reasonable costs of collection including but not limited to reasonable attorney's fees. Seller reserves all other rights granted to a seller under the Uniform Commercial Code ("UCC") (or equivalent law in the applicable jurisdiction) for Buyer's failure to pay for the Products, or any other breach by Buyer of these Terms. In addition to all other rights and remedies available to Seller (which Seller does not waive by the exercise of any rights hereunder), Seller may suspend the delivery of any Products if Buyer fails to pay any amounts by the applicable due date and the failure continues for five (5) days following Buyer's receipt of notice thereof. Buyer may not withhold payment of any amounts due and payable as a set-off of any claim or dispute with Seller, regardless of whether relating to Seller's breach, bankruptcy, or otherwise. All purchases and related payments will be in US Dollars unless otherwise stated on the applicable invoice. Invoicing disputes must be identified in writing within 21 days of the date of invoice. Payments of any disputed amounts are due and payable upon resolution. The Parties shall seek to resolve any such disputes expeditiously and in good faith within 21 days of the dispute notice. All other amounts remain due within 30 days.

c. In the event that Buyer provides a payment without designating the invoice(s) to which such payment is to be applied, Seller may apply such payment to such invoice(s) or other amounts owing by Buyer to Seller as Seller may determine in its sole discretion.

### **3. DELIVERY; SHIPPING.**

a. Seller will deliver or make available the Products within a reasonable time after receiving Buyer's Purchase Order, subject to manufacturing schedules. The delivery date provided by Seller for the Products is only an estimate and is based upon prompt receipt of all necessary information from Buyer. If Buyer causes Seller to delay shipment or completion of the Products, Seller will be entitled to any and all extra costs and expenses resulting from the delay. Seller will not be liable for any delays, loss, or damage in transit, and failure to deliver within the time estimated will not be a material breach of contract on Seller's part. Seller will use commercially reasonable efforts to make shipments as scheduled.

b. Unless otherwise agreed in the Purchase Order or otherwise agreed in writing by the parties, Seller will deliver the Products, (the "Delivery Location"), using Seller's standard methods for packaging and shipping same. Buyer will take delivery of the Products within one (1) day of Seller's notice that the Products

have been delivered to the Delivery Location. If Buyer fails to take delivery of the Products within this one (1) day period, Buyer will pay Seller for the Products and all storage expenses incurred by Seller or, in Seller's discretion, Seller may ship the Products to Buyer at Buyer's expense. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer will pay for the units shipped whether the shipment is in whole or partial fulfillment of Buyer's Purchase Order. Claims for loss or damage to Products in transit must be made to the carrier and not to Seller.

c. The quantity of any installment of the Products, as recorded by Seller on Seller's shipping form shall be conclusive evidence of the quantity received by Buyer, unless Buyer provides conclusive evidence to the contrary. Seller shall not be liable for any non-delivery of Products to the Delivery Location, unless Buyer gives notice to Seller of the non-delivery within five (5) days following the date that Buyer would, in the ordinary course of business, have received the Products. Seller's liability for any non-delivery of the Products will be limited to replacing the Products within a reasonable time or adjusting the invoice for the Products to reflect the actual quantity delivered, at the Seller's option.

#### **4. TITLE; RISK OF LOSS.**

a. Risk of loss or damage passes to Buyer upon delivery to the carrier. If Buyer fails to accept delivery of any of the Products on the date set forth in Seller's notice that Seller has delivered the Products to the Delivery Location, or if Seller is unable to deliver the Products to the Delivery Location on the date because Buyer has failed to provide appropriate instructions, documents, licenses, or authorizations, then: (i) the Products will be deemed to have been delivered to Buyer; and (ii) Seller, at its option, (A) may store the Products until Buyer takes possession of them, at which time Buyer will be liable for all costs and expenses resulting therefrom (including but not limited to the cost of storage and insurance), or (B) ship the Products to Buyer, at Buyer's cost and expense.

#### **5. INSPECTION; REJECTION OF PRODUCTS.**

a. As used in this Section, "Nonconforming Products" means only the following: (i) the items shipped are different from those identified in the Purchase Order; or (ii) the labels or packaging of the items incorrectly identifies them. Buyer will inspect the Products within thirty (30) days following receipt thereof (the "Inspection Period"). The Products will be deemed accepted at the end of the Inspection Period unless Buyer notifies Seller in writing of any Nonconforming Products and furnishes Seller with written evidence or other documentation reasonably required by Seller.

b. If Buyer notifies Seller of any Nonconforming Products prior to expiration of the Inspection Period, then Seller will, in its sole discretion, (i) replace the

Nonconforming Products with conforming Products, or (ii) credit or refund the purchase price for the Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer. At Seller's request and direction, Buyer will return the Nonconforming Products at Seller's expense or dispose of the Nonconforming Products in a manner approved by Seller, and upon request Buyer shall provide Seller with a certificate of destruction of such Nonconforming Products. Upon receipt of the Nonconforming Products, Seller will promptly refund the monies owed or ship the replacement Products to the Delivery Location at Seller's expense, with Seller retaining the risk of loss until delivery.

c. Buyer acknowledges and agrees that the remedies set forth in this Section are Buyer's exclusive remedies and Seller's sole liability for the delivery of Nonconforming Products, and except as set forth in this Section, Buyer has no right to return the Products to Seller without Seller's written authorization.

## **6. LIMITED WARRANTY.**

a. Generally: Unless otherwise specified by Seller in a separate written product warranty accompanying the Products (in which case such other product warranty term shall control), Seller warrants to Buyer that the Products will be made in a good and workmanlike manner and in accordance with the specifications supplied or agreed to by Buyer. If the Products fail to conform to this Limited Warranty and Buyer informs Seller in writing of such nonconformance, then Seller will either (i) repair or replace the defective Products or (ii) in Seller's sole and exclusive discretion, refund the amount that Buyer paid for such defective Products at time of original purchase, which amount shall pro-rated for Warranty Periods greater than one (1) year. Buyer shall bear the costs of access, de-installation, reinstallation and transportation of the Products to Seller and back to Buyer. Any repair or replacement pursuant to this Limited Warranty shall not extend the Warranty Period.

b. Conditions to Limited Warranty: This Limited Warranty and remedy are expressly conditioned upon: (i) Buyer's proof of payment of the purchase price in full; and (ii) Buyer giving written notice of the defect, reasonably described, to Seller within thirty (30) days of the time when Buyer discovers or should have discovered the defect.

c. What This Limited Warranty Does Not Cover: The foregoing Limited Warranty does not apply to (i) consumable Products and components; (ii) Products subjected to misuse, neglect, accident or improper installation by others; (iii) Products damaged by disaster (e.g., fire, flood, wind, earthquake or lightning) or other causes beyond the control of Seller; (iv) Products whose defect has been caused by alteration or repair by anyone except Seller or Seller's authorized representatives; (v) normal wear and tear; (vi) Defects caused by the Buyer's faulty specifications.

d. How to Make a Warranty Claim: Buyer must notify Seller of any warranty claims and request a Return Material Authorization (“RMA”) by contacting (i) Buyer’s place of purchase (e.g., Seller’s branch), or (ii) Seller’s customer support organization. Returned Products will only be accepted if the RMA is included with the returned Products, and Products returned without a proper RMA will be returned to Buyer at Buyer’s expense. The limited remedies described herein are the sole and exclusive remedy and Seller’s sole responsibility under this Limited Warranty.

## **7. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY.**

a. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT AS STATED IN THE FOREGOING LIMITED WARRANTY OR OTHER WARRANTY APPLICABLE TO THE EQUIPMENT, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE PRODUCTS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SELLER DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, AND ANY WARRANTY ARISING OUT OF ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. SELLER NEITHER ASSUMES, NOR AUTHORIZES ANY OTHER PERSON PURPORTING TO ACT ON ITS BEHALF TO MODIFY OR TO CHANGE ANY WARRANTY APPLICABLE TO A PRODUCT OR SERVICE, NOR TO ASSUME FOR IT ANY OTHER WARRANTY OR LIABILITY CONCERNING ANY PRODUCT OR SERVICE. SOME JURISDICTIONS DO NOT ALLOW THE FOREGOING EXCLUSIONS AND LIMITATIONS. IN SUCH AN EVENT, SUCH EXCLUSION AND LIMITATION WILL NOT APPLY SOLELY TO THE EXTENT PROHIBITED BY APPLICABLE LAW, AND THE DURATION OF ANY IMPLIED WARRANTIES WILL BE LIMITED TO THE DURATION OF THE FOREGOING LIMITED WARRANTY.

b. TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, IN NO EVENT WILL SELLER OR ITS AGENTS OR AFFILIATES BE LIABLE, WHATEVER THE LEGAL BASIS FOR THE CLAIM, FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, LIQUIDATED OR PUNITIVE DAMAGES OR FOR ANY DAMAGES FOR LOSS OF BUSINESS, LOSS OF USE, LOSS OF REVENUE OR PROFITS, LOSS ARISING FROM DELAYS, ARISING OUT OF, BASED ON, OR RESULTING FROM THESE TERMS OR THE USE OF, MISUSE OF, OR INABILITY TO USE THE PRODUCTS, EVEN IF SELLER (OR ITS AGENTS OR AFFILIATES) HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

c. IN NO EVENT SHALL SELLER AND ITS AFFILIATES AND THEIR RESPECTIVE PERSONNEL, SUPPLIERS AND VENDORS AGGREGATE LIABILITY UNDER THESE TERMS OR OTHERWISE WITH RESPECT TO THE

SPECIFIC PRODUCTS PURCHASED HEREUNDER EXCEED THE AMOUNTS PAID TO SELLER BY BUYER FOR THE PRODUCTS GIVING RISE TO SUCH LIABILITY, REGARDLESS OF THE CAUSE OR FAULT AND WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE..

d. THE FOREGOING DISCLAIMERS AND LIMITATIONS WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

## **8. CANCELLATION AND TERMINATION.**

a. No Products may be returned without prior written approval of Seller. Orders placed with and accepted by Seller may not be canceled except with Seller's written consent prior to shipment and Buyer's acceptance of Seller's cancellation charges, which shall protect Seller against all costs and losses. Seller reserves the right to cancel any sale hereunder prior to delivery in Seller's sole discretion without liability to Buyer (except for refund of monies already paid).

b. In addition to any other remedies that Seller may have, Seller may terminate these Terms with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under these Terms and the failure continues for five (5) 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. In addition, Seller may terminate these Terms without cause on ninety (90) days prior written notice to Buyer.

c. Buyer's decision is final regarding all aspects of the Products it has ordered. Buyer warrants that the ordered Products meet Buyer's specifications and requirements, including code compliance.

## **9. BUYER'S MATERIAL.**

Orders requiring use of Buyer's material are accepted subject to delivery of amount of material and in dimensions as specified by Seller, F.O.B. Seller's plant. If material is defective or will not perform to Seller's requirements because of chemical composition, physical properties or dimensions, Seller may cancel order without incurring liability, but Buyer shall pay Seller's costs through time of cancellation. Scrap resulting from stamping operations shall be the property of Seller unless otherwise agreed to in advance.

## **10. DIES, TOOLS, GAGES.**

The stamping industry considers dies, their engineering and design an integral part of the manufacturing processes of stampings. Therefore, payment of initial charges for dies, tools, jigs, fixtures, patterns and gages supplied by Seller conveys neither ownership nor the right of removal from Seller. Ownership, including the right of removal, may be obtained by the Buyer by negotiation and agreement between Seller and Buyer, for a fair reimbursement of the cost of the dies, design, development, experimental work, maintenance and storage. Seller agrees to keep dies in normal and reasonable state of good preservation as long as they remain in Seller's control, but Seller accepts no responsibility for the operation of these dies when used in any other plant than Seller's, or after they have been once removed. Special dies paid for by Buyer will be limited in use to Buyer's requirements excepting by permission. Cost of adaptation, modification or excessive maintenance of tooling furnished by Buyer will be charged for by Seller. Dies inactive for a period of three years may, at the option of Seller, be scrapped upon notification of intent to do so by Seller to Buyer, and upon failure of Buyer to advise Seller to the contrary within 30 days. Any resulting scrap value of dies shall belong to Seller as payment in full for storage and maintenance costs. Payment for tool and die charges are payable upon billing to Buyer.

Tools built by Seller are warranted for the life cycle of the parts and are owned by the Buyer. This means Buyer only pays Seller once for the tool. All maintenance will be done by Seller, and Seller will not bill for additional tool expense in the future as long as the part dimensions remain the same. If a part change is requested, Seller shall evaluate if the current tool could adapt to the change and if so, what that would cost. This cost would be the responsibility of the Buyer. If the Buyer requests to move production from Seller, a tool removal fee will be imposed and must be paid in full prior to the tool exiting from Seller. The standard fee is 1/3 the initial build cost of the tool. This fee may be prorated dependent upon the production run on the tool to date. The fee will include all labor and materials required to palletize and prepare tooling to be picked up by a carrier of Buyer's choice. All shipments will be FOB Seller's facility.

## **11. PATENTS.**

It is not the intention of Seller to manufacture any product which is an infringement of a patented article. Parts are made by Seller strictly to specifications furnished by Buyer, or commercial standards of the stamping industry. It is agreed that Buyer will defend and save harmless Seller from any and all expenses involved in any claim for damages from infringement of letters patent by the use or sale of parts made by Seller, either as such, or as parts or units of complete entities.

## **12. EXCUSABLE DELAY/FORCE MAJEURE.**

Seller shall not be liable nor in breach or default of its obligations under any contract to the extent its performance of such obligations is delayed, hindered, or prevented, in whole or in part, directly or indirectly, due to causes beyond its

reasonable control, whether foreseeable or unforeseeable, including, but not limited to, acts of God, fires, floods, or other natural disasters (declared or undeclared), terrorism, war (declared or undeclared), armed conflict (or the serious threat of same), plagues, epidemics, pandemics, quarantines, or other public health risks and/or responses thereto, insurrection, civil disturbances, insurrection, riots, mob violence, acts or omissions of Buyer or Buyer's suppliers or agents, any act (or omission) by any governmental authority (including any change of law or regulation), strikes, lock-outs, differences with workers, accidents, labor disputes, transportation shortages, the unavailability or shortage(s) of labor, energy, materials, production facilities, transportation, or shipping, cyber-attacks, viruses, ransomware, failures or interruptions to network systems, data breaches, vendor non-performance, or any other cause, casualty, or excusable delay beyond Seller's reasonable control, whether similar or dissimilar to any of the foregoing. Upon the occurrence of a force majeure or other excusable delay, Seller's performance or delivery date shall be extended for a period equal to the duration of the force majeure event or time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay. If the delay is due to any acts or omissions of Buyer, or Buyer's agents, contractors or suppliers, Seller shall be entitled to both an equitable performance and price adjustment. If Seller incurs increased cost by reason of delay not attributable to any act or omission of Buyer (including but not limited to extended warehouses and storage fees, labor wages, etc.), the increased cost shall be distributed equitably between Seller and Buyer, or the Contract shall be cancellable at Seller's election.

### **13. GOVERNING LAW; VENUE.**

a. Governing Law. These Terms shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, excluding its conflict of law rules.

b. Venue. Venue shall be in the courts of the Commonwealth of Massachusetts, Bristol County.

### **14. MISCELLANEOUS.**

a. Buyer acknowledges that it has not been induced to purchase any of the Products from Seller by any representation or warranty not expressly set forth in these Terms. These Terms and any Superseding Agreement constitute the entire agreement of the parties and supersede all existing agreements and all other oral or written communications between them concerning its subject matter. If there is a conflict between the provisions of the Purchase Order, the Superseding Agreement and these Terms, then the terms of the Superseding Agreement shall govern. No waiver by Seller of any of the provisions of these Terms is effective unless explicitly set forth in writing that specifically references these Terms and is signed by Seller. No failure to exercise, or delay in exercising, any rights, remedy,



power, or privilege arising from these Terms 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 Section headings contained in these Terms are for convenience only and will not affect the interpretation of any provision. If any provision of these Terms is held to be prohibited or unenforceable, the remaining provisions will continue in full force and effect. Buyer will not assign any quotation or accepted order for the Products, in whole or in part, without Seller's prior written consent. Buyer agrees that Seller may scan, image or otherwise convert these Terms into an electronic format of any nature. Buyer agrees that a copy of these Terms produced from such electronic format is legally equivalent to the original for any and all purposes, including litigation. All terms that by their nature are intended to survive shall survive any cancellation or expiration of these Terms or any Purchase Order.

## **15. NOTIFICATION.**

All notices, approvals, consents, requests for demands required or permitted to be given under these Terms shall be in writing and shall be deemed sufficiently given when deposited in the mail, registered or certified, postage prepaid, and addressed to the party entitled to receive such notice at the address designated by each party.