

**BECKETT THERMAL SOLUTIONS**  
STANDARD TERMS AND CONDITIONS OF SALE

**I. SCOPE.**

1.1. Definitions. The following defined terms are used in these Standard Terms and Conditions of Sale (these “**Terms**”): (a) “**Agreement**” means the collective terms and conditions described in (a) and (b) of Section 1.2 of these Terms below; (b) “**Supplier**” means Beckett Thermal Solutions; (c) “**Customer**” means the purchaser of the products or services; and (d) “**Products**” means the products and/or services that are purchased by Customer from Supplier.

1.2. Terms and Conditions. The terms and conditions that apply to and govern the sale of Products by Supplier to Customer and collectively form the complete and final agreement between Customer and Supplier are limited exclusively to those contained in, or expressly incorporated by, (a) as applicable, Supplier’s quotation, acknowledgement, invoice or separate written sales agreement signed by an authorized representative of Supplier, and (b) unless explicitly excluded in a written agreement signed by an authorized representative of Supplier, these Terms, whether or not they are specifically referenced in or incorporated by Supplier’s quotation, acknowledgement, invoice or separate written and signed sales agreement. The terms and conditions of the quotation, acknowledgement, invoice or written and signed sales agreement shall be read, to the greatest extent possible, as being consistent with these Terms, but any irreconcilable conflict shall be resolved in favor of the quotation, acknowledgement, invoice or separate written and signed sales agreement.

1.3. Priority of Terms. Supplier’s acceptance of any purchase order is conditioned upon Customer’s assent to the terms and conditions of the Agreement. The terms and conditions of the Agreement supersede, and Supplier objects to, terms and conditions that are in addition to or different from those that are a part of the Agreement, including, without limitation, terms and conditions appearing on or referenced in Customer’s purchase order (other than the specifics of the transaction (e.g., part number, quantity and delivery location) that are included in Supplier’s order acknowledgment), other Customer documents, Customer’s standard terms and conditions of purchase, Customer’s quality policy and other rules, standard and policies, and Customer’s web site or supplier e-commerce site, even though it may be necessary for Supplier to click an “accept,” “agree,” or similar button on an electronic site as a means of accessing information about current or prospective orders or programs of supply, and no additional or different terms and conditions shall be a part of the Agreement, unless expressly made so in a writing signed by an authorized representative of Supplier. No course of prior dealings between the parties and no usage of trade shall be relevant to supplement or explain any term used in the Agreement.

1.4. Proposed Change and Waiver. Proposed modifications or waivers of the terms of the Agreement shall not be binding on Supplier, unless clearly expressed in writing and signed by an authorized representative of Supplier, shall be void, and shall not apply to the sale of the Products by Supplier. The preceding sentence excludes from the Agreement, among other things, purported modifications and waivers by oral agreement, course of performance, and usage of trade. Supplier’s failure to object to any modification or waiver shall not operate as a waiver of any of the terms of the Agreement.

1.5. Modification of Terms. Supplier may modify these Terms at any time and without prior written notice to Customer. Any revised Terms, however, will apply only to those purchase orders received by Supplier after the effective date of the revision.

**2. ORDERS.**

2.1. Credit; Tax Resale Certificate. Purchase orders and shipments are subject to credit approval by Supplier. Supplier may, in its discretion, reject Customer’s credit application and modify, suspend or withdraw the credit amount and terms, and suspend shipping of orders, at any time and without notice to Customer. Customer shall furnish to Supplier a Tax Resale Certificate, if applicable.

2.2. Approval. All purchase orders and change orders are subject to Supplier’s written approval. Supplier may reject a purchase order and change order for any reason. Supplier will not be obligated to fulfill any request for Products that Customer is not also obligated to purchase. Customer shall be deemed to have accepted the Agreement by (a) assenting to the Agreement in writing, (b) placing an order for Products, (c) accepting delivery or performance of all or any portion of the Products, (d) paying for all or any portion of the Products, or (e) taking any other action evidencing Customer’s acceptance of the benefits of the Agreement.

2.3. Minimum Purchase Quantities. Purchase orders for less than the minimum order quantity may be increased unilaterally by Supplier to minimum quantities, in Supplier’s discretion, without further notification, and Customer shall be liable to pay for such quantities.

2.4. Order Cancellation. Customer purchase orders accepted by Supplier may not be canceled by Customer without Supplier's prior written approval and then only upon terms as shall be agreed in writing by Supplier. Supplier, in its discretion, may cancel any Customer purchase orders or change orders with notice to and without liability to Customer (except for refund of moneys already paid) if Customer's account is in arrears or manufacture or sale of the Products is, or is likely to become, technically or economically impractical.

### **3. PRICES, TAXES AND ERROR.**

3.1 Quotations. Written price quotations automatically expire 30 days after the date of quotation, unless the quotation expressly provides otherwise, and are subject to termination upon notice from Supplier within that period. Supplier shall have no liability for any oral quotation or under any oral agreement.

3.2 Prices. Unless otherwise provided in a writing that is part of the Agreement, the price for Products shall be Supplier's price set forth on a sales quote, for domestic shipments, FOB Supplier's facility, and for shipment outside the United States, Ex Works (EXW), and if the sales quote has expired, the price for Products shall be Supplier's price set forth on its order acknowledgment, for domestic shipments, FOB Supplier's facility and for shipment outside the United States, Ex Works (EXW). Prices are subject to change at any time prior to Supplier's acceptance of a purchase order. For blanket purchase orders, prices are subject to Supplier's review and adjustment, including retroactive adjustment, at any time prior to shipment. Prices are based on and assume Customer's compliance with all of the terms and conditions of the Agreement, including, if applicable, a promise by Customer to purchase a particular mix of Products, a certain quantity of Products, or a certain percentage of Customer's requirements for the Products. Notwithstanding any other terms of the Agreement, Supplier may adjust prices if any of the forgoing assumptions proves incorrect. Supplier may pass through to Customer, and Customer shall accept, any price increase imposed by a supplier or sub-vendor that Customer requires or requests Supplier to use. Except to the extent Customer and Supplier have otherwise explicitly agreed in a separate signed writing and subject to the other terms in this Section 3.2, Supplier may, in its discretion, upon 30 days' written notice, adjust prices.

3.3 Taxes. Prices do not include any taxes, fees, assessments or other charges imposed by any governmental authority on the manufacture, sale, purchase, transportation, export or import of the Products, all of which shall be the responsibility of and paid by Customer or, if required to be paid by Supplier, then reimbursed upon demand to Supplier by Customer. Taxes, fees, assessments and charges set forth in the preceding sentence will be added to Supplier's invoice and shall be paid by Customer, except if exempt by law and only if Supplier received a valid Tax Resale Certificate.

3.4 Packaging. Prices are based on Supplier's standard packaging for domestic U.S. shipments. Additional charges shall apply for packaging for export shipments and other special shipping or packaging requirements requested by Customer.

3.5 Errors. Supplier may, at any time, correct errors in specifications or prices due to typographical, clerical or engineering errors or because of incomplete or inaccurate information from Customer.

### **4. SHIPMENT AND DELIVERY.**

4.1 Dates. Notwithstanding any dates of delivery or shipment set forth in any communication or documentation, delivery and shipment dates provided by Supplier are estimates only and Supplier shall not be liable for failure to deliver on such dates.

4.2 Shipping. Freight terms for deliveries within the United States are FOB Supplier's facility, and, outside of the United States, are Ex Works (EXW) Supplier's facility (Incoterms 2020), unless otherwise agreed in writing by Supplier in advance of shipment date. Delivery of Products to Supplier's dock or other loading point ready for pickup by the first carrier ("**Delivery Point**") shall constitute delivery to Customer and, regardless of shipping terms and freight payment, all risk of loss or damage after such delivery and while in transit shall be borne by Customer. Title to the Products shall transfer to Customer upon delivery of the Products to the Delivery Point. Unless otherwise agreed in writing, Supplier may select the shipping method and carrier. Supplier may make deliveries in installments without liability or penalty, and each installment shall constitute a separate sale, in which case Supplier's payment terms shall apply to each installment separately. Delay in delivery of one installment shall not entitle Customer to cancel other installments. Supplier shall not be liable for any damage resulting from or related to a Force Majeure Event (as defined below).

4.3 Product Quantities. Supplier shall be allowed a plus or minus ten percent (+/- 10%) leeway on the quantities called for by Customer's purchase order and Customer shall accept such quantities as fulfillment of Supplier's delivery obligation.

4.4 Suspension of Delivery. Customer may postpone or delay deliveries only by providing Supplier a written request received by Supplier at least seven (7) days prior to the originally scheduled shipping date and Customer's payment in full

of the aggregate price of the Products and other costs and expenses permitted herein on or before that date. In no event may Customer postpone or delay delivery for more than 5 days without the express written agreement of Supplier.

4.5 Loss. Supplier shall not be liable for, and Customer shall not assert against Supplier or deduct from amounts owing to Supplier, claims for delay, breakage, loss or damage occurring after Supplier has satisfied its delivery obligations as set forth in Section 4.2 above. Customer shall instead make all claims for any such delay, breakage, loss or damage directly to the transportation carrier or insurer, as appropriate, and not to Supplier.

4.6 Acceptance. Customer shall not be entitled to reject or refuse to accept the Products unless they do not conform to the applicable limited warranty set forth in Section 8.1 below. Claims for shortages or other errors in delivery shall be made by Customer to Supplier in writing no later than 7 days after Customer's receipt of Products. Customer's failure to submit a written claim in accordance with the previous sentence shall be deemed unqualified and final acceptance of the Products and waiver of any shortage or other error in delivery claims by Customer.

## **5. PAYMENT.**

5.1 Payment Terms. Payment terms are net 30 days after the invoice date unless Supplier otherwise agrees in writing.

5.2 Late Payment. Customer shall be charged a late payment fee of one and one-half percent (1.5%) per month for each month in which payment is delayed, or the maximum lawful rate, whichever is lower, until payment is made in full.

5.3 Reasonable Assurances. Supplier, in its sole discretion, may modify payment terms at any time without prior notice to Customer, and may, in its sole discretion, withhold manufacturing or shipment, require payment guarantees, security, payment in advance or require another form of satisfactory security. Supplier may recover shipped Products from the carrier pending such assurances.

5.4 Security Interest. As collateral security for Customer's payment of all amounts due (including, without limitation, late fees and collection costs) and performance in full of all obligations of Customer under the Agreement, Customer grants to Supplier a first priority purchase-money security interest in and to all right, title and interest of Customer in, to and under the Products, 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 Section constitutes a purchase money security interest under applicable law.

5.5 Collection Costs. In addition to all other remedies available to Supplier under the Agreement and applicable law, Customer shall be responsible to Supplier for all reasonable attorneys' fees, court costs, and collection fees should Customer default on or delay any payments.

**6. RETURNS.** No Product shall be returned without the prior written authorization of Supplier and Supplier's issuance of a return material authorization ("**RMA**"). Made-to-order or custom Products are not eligible for return. Unless otherwise instructed by Supplier, return freight to Supplier for authorized Products with an RMA will be paid by Supplier. Products must meet the eligibility requirements to be returned and Customer must follow all return instructions which may be obtained by contacting Supplier. Customer shall return Products to Supplier's facility no later than 14 days after Supplier's issuance of a RMA.

**7. SPARE OR REPLACEMENT PARTS.** Supplier shall have no duty to stock or provide spare or replacement parts or products.

## **8. LIMITED WARRANTY; EXCLUSIVE REMEDIES.**

### **8.1 Limited Warranties.**

(a) *Standard Products.* Supplier warrants to Customer that, on the original date of shipment, its standard Products will conform to the Product specification in effect on the date of manufacture, or identified on Supplier's print or acknowledgment, or set forth explicitly in another document that is part of the Agreement and executed by Supplier, for a period of sixty (60) days from the original date of shipment.

(b) *Custom Products.* Supplier warrants to Customer that, on the original date of shipment, custom Products will conform to the specifications set forth on a print or drawing executed by Supplier and Customer for a period of thirty (30) days from the original date of shipment.

(c) *Stainless-Steel Heat Exchanger Products.* The limited warranties set forth in subsections (a) and (b) above shall not apply to Supplier's stainless-steel heat exchanger products. The exclusive limited warranty for Supplier's stainless-steel heat exchanger products can be found at [www.beckettthermal.com](http://www.beckettthermal.com).

THE FOREGOING LIMITED WARRANTIES ARE IN LIEU OF, AND SUPPLIER DISCLAIMS, ALL OTHER WARRANTIES OF ANY AND EVERY KIND, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING UNDER STATUTE, TRADE USAGE, COURSE OF DEALINGS, COURSE OF PERFORMANCE, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF DESIGN, PERFORMANCE, PRODUCT LIFE, OR INFRINGEMENT, WARRANTIES OF COMPLIANCE WITH CUSTOMER'S QUALITY MANUALS, QUALITY POLICIES, INSPECTION PROTOCOLS AND OTHER POLICIES, STANDARDS AND REQUIREMENTS, WARRANTIES RELATING TO OPERATING CONDITIONS, AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER SHALL BE SOLELY RESPONSIBLE AND ASSUMES SOLE RESPONSIBILITY FOR DETERMINING WHETHER THE PRODUCTS ARE SUITABLE FOR CUSTOMER'S INTENDED APPLICATION AND USE.

8.2 Exclusive Remedy. If Supplier determines that the Product(s) do not conform to a limited warranty set forth in Section 8.1 above and that it is responsible for such nonconformity, Customer's sole and exclusive remedy, at Supplier's option, shall be repair or replacement of the nonconforming Product(s) or a credit of the purchase price paid by Customer to Supplier for the nonconforming Product(s). Products repaired or replaced during the applicable warranty period under a limited warranty set forth above shall be covered by the foregoing exclusive remedy for the remainder of the original warranty period. The remedies set forth in this Section 8.2 shall be Supplier's entire liability and Customer's sole and exclusive remedy and sole recourse against Supplier for a breach of warranty and for any other claim relating to the Products, regardless of the basis of Customer's claim, whether it is in contract, tort, recall, infringement, express or implied warranty, negligence, strict liability or otherwise.

8.3 Claims Procedure. To be entitled to the exclusive remedy, Customer shall (a) submit a written warranty claim received by Supplier prior to expiration of the applicable warranty period set forth in Section 8.1 above; (b) obtain from Supplier written approval to return the claimed defective Product(s) and a RMA; (c) return to Supplier's facility 100% of the Products claimed to be defective no later than 14 days after Supplier's issuance of a RMA at Supplier's cost, unless otherwise directed by Supplier; and (d) if instructed by Supplier, provide reasonable evidence in support of the warranty claim, including, engineering documentation, test results, evaluations and investigations performed by Customer or Customer's customer. Claims not made as provided in this Section 8.3 and within the applicable time period shall be barred.

8.4 Exclusions. The limited warranties set forth in Section 8.1 shall not apply to, and there shall be no warranties for, Products that Supplier determines are defective, damaged or impaired as a result of or relating to: (a) any action inconsistent with the normal and proper use and handling of the Products; (b) improper selection, handling, transportation, storage, installation, application, adjustment, modification or alteration; (c) improper or inadequate maintenance; (d) unauthorized repair (including any adjustment, modification, alteration, or addition made by anyone other than Supplier); (e) misuse; (f) use of the Product in other than its normal and customary manner; (g) accident; (h) abuse; (i) negligence (other than Supplier's); (j) freight or shipment after the Product has left Supplier's facility; (k) operation at extreme conditions.

8.5 Third Party Products. Supplier does not make any warranty and assumes no liability for products, parts, components and software that it sells but does not manufacture. To the extent third-party warranties for Products sold but not manufactured by Supplier are transferable, Supplier will pass through to Customer such transferable third-party warranty received from Supplier's sub-suppliers.

## **9. LIABILITY.**

9.1 No Consequential or Indirect Damages. To the maximum extent not prohibited by applicable law, in no event shall Supplier or any of its representatives be liable under the Agreement or in connection with the Products to Customer or

any third party, and Customer shall not assert, any of the following, whether or not due to Supplier's negligence or any other cause: (a) consequential, indirect, incidental, special, exemplary, punitive and/or enhanced damages; (b) loss of profits or revenue, diminution in value, loss of use, line shut-down, loss of goodwill, damage to reputation, cost of capital, cost of substituted product, facilities or services; and (c) claims of Customer's customers or other third parties for damages or penalties, whether or not Customer is legally obligated to pay them, regardless of whether such damages were foreseeable, whether or not Supplier was advised of the possibility of such damages, and regardless of the legal or equitable theory (contract, tort (including negligence) or otherwise) upon which the claim is based.

9.2 Limitation of Liability. Notwithstanding anything to the contrary set forth in the Agreement, in any other document, under applicable law or otherwise, to the maximum extent not prohibited by applicable law, Supplier's aggregate liability for all claims and losses arising out of and relating to the Agreement or the Products shall not exceed the price paid by Customer and received by Supplier for the individual Product giving rise to the claim or loss. In no event shall Supplier's liability to Customer for Products, parts, components, materials or software sold to Customer under the Agreement, but not manufactured by Supplier, exceed the net amount recovered by Supplier from the third-party supplier or manufacturer for any products, parts, components, materials or software giving rise to the liability or claim, and no credits or payments shall be made to Customer until such amounts are actually recovered by Supplier. The disclaimers and exclusions set forth in Section 8 shall apply even if the exclusive remedy described in Section 8.2 fails its essential purpose. These limitations shall apply even if Supplier has been advised of the possibility of the loss or damages, and regardless of whether the loss or damages were foreseeable, and whether a claim for recovery is based on breach of warranty or contract, tort, recall, intellectual property infringement, negligence, strict liability, or otherwise. Supplier's rights and remedies set forth in the Agreement are in addition to all legal and equitable rights and remedies available to Supplier.

**10. LOCATION OF MANUFACTURE.** Unless otherwise agreed by an authorized representative of Supplier in writing, Supplier may manufacture the Products at any of its facilities and may change the facility of manufacture in its sole discretion.

#### **11. TOOLING.**

11.1 Ownership. Customer shall be considered the owner of all tooling, dies and similar items (a) that Customer owns and places in Supplier's possession for the purpose of manufacturing Products, or (b) that Customer pays for as separate items if Customer and Supplier specifically agree in writing that such tooling, dies or similar items will be owned by Customer ("**Customer Tooling**"). Customer shall be responsible for paying for necessary replacements of and repairs to Customer Tooling.

11.2 Customer Property. Supplier assumes no obligation or liability with respect to Customer Tooling or any other property of Customer to which Supplier is not taking title ("**Customer Property**") other than to exercise reasonable care. Supplier is not obligated to segregate, label, protect, insure or take any other specific action with respect to managing and safeguarding Customer Tooling or Customer Property. Customer accepts all risk of loss and damage to Customer Tooling and Customer Property, except for loss or damage to the extent caused exclusively by Supplier's gross negligence, and Customer waives all rights of subrogation for itself and its insurers with respect to any such loss and damage. Customer hereby grants to Supplier a security interest in the Customer Tooling and Customer Property to secure all amounts owed by Customer to Supplier. Customer consents to Supplier filing any documentation, including UCC financing statements, useful to perfecting the security interest.

11.3 Supplier Property. Supplier shall be considered the owner of all tooling, dies and similar items used by Supplier in connection with the Products other than the Customer Tooling ("**Supplier Tooling**"). Customer acquires no interest in Supplier Tooling, notwithstanding any charges, amortizations or other costs included in the pricing or otherwise paid by Customer in relation to Supplier Tooling. Supplier may use Supplier Tooling without restriction in any of its business operations. Supplier may retain Supplier Tooling at the conclusion of the commercial relationship between Supplier and Customer with respect to the affected Products.

**12. CONFIDENTIALITY.** Price schedules, quotes, discounts, rebates or other price-related information are considered Supplier's Confidential Information and Customer shall not disclose or disseminate, and shall prohibit the disclosure or dissemination of, such confidential information to any third-party without the prior written consent of Supplier, except that Customer may disclose such confidential information with its employees who have a need to know such information. Customer's employees' disclosure or dissemination of confidential information shall be a breach of this Section 12, and Customer shall be liable for any disclosure or dissemination of the confidential information by its employees or third-parties who receive confidential information from Customer or its employees. If Customer and Supplier executed a nondisclosure agreement, the terms and conditions of the executed agreement are incorporated into the Agreement as if written in full herein.

**13. INDEMNIFICATION.** Customer shall indemnify and defend Supplier, its officers, directors, owners, attorneys, auditors, employees, agents, representatives, successors and assigns against any actions, proceedings, claims, demands, judgments, awards, settlements, penalties, liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' and witness fees and court costs) relating to, connected with and/or arising from Customer's or its representatives' (a) negligence, fraud, or willful misconduct, (b) breach of the Agreement; provided, however, that Customer shall not be liable for indemnification and defense to the extent any claim or damage resulted from Supplier's gross negligence or willful misconduct.

**14. FORCE MAJEURE.** Supplier shall not be liable for any delay or failure to perform, or for any damages suffered by Customer by reason of any delay or failure to perform, if directly or indirectly arising from, related to, or connected with, any act beyond Supplier's reasonable control, whether foreseen or unforeseen, including, but not limited to, acts of God, vandalism, sabotage, accidents, fires, floods, epidemic, pandemic, quarantine, strikes or other labor disputes, mechanical breakdown, shortages or delays in obtaining suitable parts, equipment, materials, labor, power or transportation, acts of suppliers, interruption of utility services, acts of terrorism, or acts of any unit or agency of government. If Supplier is prevented from performing its obligations by force majeure, Supplier may, at its option, suspend its performance under the Agreement or terminate the Agreement, in whole or in part, without judicial intervention and without Supplier being liable to Customer for any damage or loss.

**15. COMPLIANCE WITH LAWS.** Customer shall fully comply with all applicable laws, decrees, rules, and regulations now or hereafter in effect in the United States and any other applicable jurisdiction, including, without limitation, anti-corruption and other laws, customs, UN Conventions, and import and export control laws and regulations of the United States and other countries (collectively, "Laws"). Without limiting the generality of the foregoing, Customer shall comply with Attachment 1 and shall not undertake or cause to be undertaken any activity that would cause Supplier to be in violation of any Laws. Consistent with the foregoing, Customer shall not (a) make any payment of or transfer directly or indirectly anything of value to any governments, government officials, political parties, political party officials, or to relatives or associates of such officials, in connection with obtaining or maintaining business in violation of any Laws, including, but not limited to, the US Foreign Corrupt Practices Act and International Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or (b) offer, promise, give, authorize, pay, demand, seek, request, induce or accept, directly or indirectly, any gift or payment, loans, goods, valuables, consideration, other benefit in kind or "anything of value" (whether such value is assessable or not) in order to obtain any improper advantage, or to retain or obtain business, or which would or could otherwise be construed as an illegal or corrupt practice in violation of any Laws. Customer shall fully indemnify Supplier against any and all claims, losses, liabilities or damages arising from or related to any violation or claim of violation covered by this Section 15.

**16. GOVERNING LAW AND VENUE.** The Agreement shall be governed by, construed and interpreted in accordance with the substantive laws of the State of Ohio, without reference to its conflicts of law. Venue for any dispute arising from or related to the Agreement or Products purchased hereunder shall be exclusively in the federal or state courts located in the State of Ohio. The parties agree that this Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods (1980). No action, regardless of form, (except for failure to pay amounts due) arising out of transactions relating to the Agreement, may be brought by either party more than 2 years after the cause of action has accrued.

**17. SURVIVAL.** Sections 5 (Payment), 8 (Limited Warranty), 9 (Exclusive Remedy; Limitation of Liability), 12 (Confidentiality), 13 (Indemnification), 15 (Compliance with Laws) and 16 (Governing Law and Venue) shall survive and

continue after any expiration or termination of the Agreement, and bind Customer and Supplier and their legal representatives, successors, heirs and assigns.

**18. NO LICENSE.** The Agreement does not grant or convey, either directly, by implication or otherwise, any right or license to any invention, patent, copyright or other intellectual property of either party to the other party.

**19. WAIVER.** No waiver under the Agreement is effective unless it is in writing and signed by the Party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege or condition arising from the Agreement: (A) any failure or delay in exercising any right, remedy, power or privilege or in enforcing any condition under the Agreement; or (B) any act, omission or course of dealing between the parties.

**20. TERMINATION.** Supplier shall have the right, without prejudice to any other remedy it may have at law or in equity, to immediately cancel all Customer purchase orders and change orders and to stop all shipments to Customer, including stoppage in transit, in the event Customer fails to render payment on any invoice in accordance with the terms of the Agreement, Customer's account is in arrears, or Customer becomes insolvent, enters into bankruptcy or is placed in receivership. Any such termination shall not relieve Customer of any of its obligations existing at the time of termination, including, but not limited to, the obligation of Customer to pay for all Products received from Supplier.

**21. NON-ASSIGNMENT; CONSTRUCTION.** Customer shall not transfer or assign the Agreement or any rights or interests hereunder without Supplier's prior written consent. All headings in the Agreement and its attachment are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of the Agreement or its attachment. Cross-references to Sections and Attachments shall refer to Sections of and Attachments to the Agreement.

**22. SEVERABILITY.** Should any part of the Agreement for any reason be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, such decision shall not affect the validity of the remaining portion, which shall continue in full force and effect as if the Agreement had been executed with the invalid, illegal or unenforceable portion eliminated therefrom. In the event that a portion of the Agreement shall be declared to be invalid, illegal or unenforceable, then the parties agree that they shall, in good faith, negotiate with one another to replace such invalid, illegal or unenforceable provision with a valid provision as similar as possible to that which had been held invalid, illegal or unenforceable to the maximum extent permissible under applicable law.

**23. INDEPENDENT CONTRACTORS; NO THIRD-PARTY BENEFICIARIES.** The relationship between Customer and Supplier is that of independent contractors. Nothing contained in any the Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither Customer nor Supplier will have authority to contract for or bind the other party in any manner whatsoever. The Agreement is for the sole benefit of Customer and Supplier and their respective successors and permitted assigns and nothing in the Agreement, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the Agreement.

**24. ENTIRE AGREEMENT.** The Agreement, its Attachment, and any nondisclosure agreement executed by the parties, if any, set forth the entire understanding and agreement between Customer and Supplier, and supersede all previous and contemporaneous agreements, whether verbal or written, express or implied, relating to the subject matter of the Agreement and the Products. The Agreement may not be altered, amended or modified except by written instrument executed by the authorized representatives of Customer and Supplier.

## **ATTACHMENT 1:**

In addition to the terms and conditions of the Agreement, Customer shall comply with the following provisions. The following terms are not a full list of applicable laws to which Customer shall comply.

### **Anti-Corruption**

- (a) Customer and any third parties engaged by Customer shall not unlawfully offer, promise or provide any payments (or otherwise transfer anything of value) to any Government Official or private party for the purposes of obtaining an improper business advantage, or otherwise engage in activities which may constitute commercial or public bribery, corruption, or kickbacks under the U.S. Foreign Corrupt Practices Act, the United Kingdom Bribery Act, the OECD Anti-Bribery Convention, or any other law of similar effect in the jurisdictions where Supplier and Customer conduct business ("**Anti-Corruption Laws**") in connection with any of the activities contemplated under the Agreement. To this end, Customer and any third parties engaged by Customer will not directly or indirectly pay, offer, authorize or promise any monies or anything of value (such as gifts, contributions, travel, or entertainment) to any person or organization, including any employee of third parties' or Supplier's customers, or any Government Official (including any employee or official of any governmental authority, government owned or controlled entity, public international organization or political party or any candidate for political office) for the purpose of influencing their acts or decisions.
- (b) Customer and its representatives shall maintain complete and accurate books and records in accordance with generally accepted accounting principles in Customer's and its representative's jurisdiction, consistently applied, properly and accurately recording any commission, compensation, reimbursement or other payment ("**Payments**") made by Customer and its representatives in performance of, on behalf of, or related to work, if any, for Supplier. Customer and its representatives will maintain a system of internal accounting controls reasonably designed to ensure that its assets are used only in accordance with its management directives and that it maintains no off-the-book accounts.

### **Export Compliance**

- (a) Customer understands and agrees that any products or services sold or otherwise provided under the Agreement (regardless of quantity or value) may be subject to economic sanctions, export controls and other restrictive trade measures with certain countries or parties, and may be subject to various licensing requirements under applicable laws and regulations of the United States and other jurisdictions. Customer shall determine whether such licenses are required before shipping products to restricted countries, parties, or territories, and shall obtain any necessary licenses whenever such requirements apply to any product, any customer, or Customer's business with Supplier. Additionally, Supplier will not directly or indirectly sell, ship, re-export, disclose or otherwise transfer any products or services supplied under the Agreement for use in nuclear related activities or facilities, chemical/biological weapons, missile or rocket systems, or unmanned air vehicles.
- (b) Supplier is committed as a matter of Supplier's Policy to strict compliance with any applicable economic sanctions, export control laws, and restrictive trade measures regulations of the countries in which Supplier conducts business, including, but not limited to, U.S. economic sanctions, export control, and anti-boycott regulations. Customer shall strictly comply with any applicable economic sanctions, export control laws, and restrictive trade measures or regulations of any country, including, but not limited to, U.S. economic sanctions, export control, and anti-boycott regulations, whenever they apply to Customer's business with Supplier, the sale, shipment, or provision of Supplier's products, and any other activities that may arise under the commercial relationship contemplated under the Agreement.
- (c) Notwithstanding any other provision of the Agreement to the contrary, Customer agrees that it will not directly or indirectly sell, ship, re-export, disclose or otherwise transfer any products or services supplied under the Agreement to Iran, North Korea, Syria, Cuba and the disputed Crimea Region, to any entities or persons located in those countries or territories, or to any entities or persons from these countries or territories located that are located elsewhere. Customer agrees that it will not directly or indirectly sell, ship, re-export, disclose or otherwise transfer any products or services supplied under the Agreement to any other countries or parties except in full compliance with all applicable governmental requirements, including, but not limited to: (i) the economic sanctions administered by the U.S. Treasury Department and U.S. State Department; (ii) the International Traffic in Arms Regulations administered by the U.S. State Department and the Export Administration Regulations administered by the U.S. Commerce Department; or (iii) any other applicable laws of similar effect administered by the European Union, United Kingdom, United



Nations, or any other jurisdictions where the Supplier and Customer conduct business (hereinafter “**Trade Compliance Laws**”).

- (d) Notwithstanding any other provision of the Agreement to the contrary, and consistent with the requirement imposed under applicable Trade Compliance Laws, Supplier will not directly or indirectly sell, ship, re-export, disclose or otherwise transfer any Products or services supplied under the Agreement to a person, entity, organization or other party identified on the U.S. Department of Commerce's Denied Persons or Entity List, the Department of State's Debarred Parties List, the various economic sanctions lists administered by the U.S. Treasury Department's Office of Foreign Assets Control (“**OFAC**”) or the U.S. State Department, or any other applicable government-issued restricted party list, as maybe published and revised from time to time.
- (e) Customer shall not take any action or make any requests that cause Customer or Supplier to violate any applicable provisions of U.S. anti-boycott laws, including the various regulations enforced by the U.S. Commerce Department and U.S. Treasury Department. To that end, Customer will not request any information necessary to comply with the Arab League Boycott of Israel, take and action to comply with said boycott, or otherwise offer or promise to comply with said boycott. Customer will also not request any information from Supplier or any Third Party related to the race, religion, nationality, or sex of any individual when such requests are related to compliance with the Arab League Boycott of Israel or any other boycott that is not sanctioned under the laws of the United States.
- (f) The obligation of Supplier to furnish products or technical information or services under the Agreement is subject to the ability of Supplier to supply such items consistent with all Trade Compliance Laws, U.S. anti-boycott laws, and other applicable laws and regulations of the U.S. Government and other governments. Supplier may refuse to enter into or perform any order, and to cancel any order, placed under the Agreement if Supplier in its sole discretion determines that the entry into such order or the performance of the transaction to which such order relates could violate any Trade Compliance Laws, U.S. Anti-boycott laws, or other applicable law or regulation of the U.S. Government or other governments.
- (g) Customer agrees that any such refusal or cancellation of any order, or termination of the agreement formed under the Agreement, will not constitute a breach of any of the Supplier obligations under the Agreement, and Customer hereby waives any and all claims against Supplier for any loss, cost or expense, including, but not limited to, any loss of profit, loss of business, loss of or damage to goodwill and similar losses, loss of anticipated savings, or increased costs or for any indirect, special or consequential losses, or pure economic loss, costs, damages, charges or expenses howsoever arising, that Customer may incur by virtue of such refusal or cancellation of any order or termination of the Agreement.

**Anti-Human Trafficking.**

Customer, its subsidiaries and affiliates shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes in force in local, national, and international law. Customer shall not engage in any activity, practice or conduct that would constitute an offence under U.S. or U.K. anti-human trafficking laws. Neither the Customer nor any of its officers, employees, agents or other persons associated with it has been convicted of any offence involving slavery and human trafficking; and has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

**Import Compliance.**

Unless otherwise agreed in writing, Supplier shall not be obligated to provide Customer with any documentation to substantiate that any of the products sold to Customer under the Agreement qualify for any preferential duty treatment.

**Notification.**

Customer shall notify Supplier promptly if (a) Customer or any of representatives have reason to believe that a breach of this Attachment has occurred or is likely to occur; or (b) if any conflicts of interest arise after the signing of the Agreement, including potential conflicts of interest regarding its relationship with Supplier, including family members who could benefit from the commercial relationship between Customer and Supplier; or (c) if Customer or any of its Representatives or their family members become a government official or political party candidate in a position to influence Customer's commercial relationship with Supplier. Customer shall send all such notices to Wayne Walker at [wayne.walker@beckettthermal.com](mailto:wayne.walker@beckettthermal.com).

**Audit Rights.**

If, at any time, Supplier believes in good faith that Customer has breached the warranties, representations or agreements in this Attachment, Supplier has the right to select an independent third party to conduct an audit, at Supplier's expense, to verify Customer's adherence to the terms in this Attachment. Customer shall fully cooperate in such audit. If the auditor finds Customer in breach, Customer shall reimburse Supplier for the cost of the audit and cure any breach immediately at its sole cost. If Customer fails to cure the breach within 30 days, Supplier may terminate the Agreement for cause.

**Compliance with Laws.**

Customer shall comply with any applicable local or national Trade Compliance Laws, U.S. Anti-boycott Laws, Anti-Corruption Laws, or other applicable regulations of the U.S. Government or any other government, notwithstanding whether or not this is contrary to any aforementioned applicable laws or regulations. Compliance with all applicable legal requirements is a prerequisite for Customer to perform its obligations under the Agreement, and if the Customer fails to comply with such legal requirements, it is incapable of meeting its obligations under the Agreement

**Breach and Termination.**

Any breach of the warranties, representations or agreements in this Attachment will constitute a material breach of the Agreement and be grounds for immediate termination for cause of the Agreement and/or any purchase order, and Supplier may withhold any payments or shipments until such time that Supplier has received confirmation to its reasonable satisfaction that no breach has occurred or will occur. Customer shall indemnify Supplier against any actions, legal claims, demands, proceedings, losses, damages, costs, expenses and other liabilities of whatever nature resulting from Customer's breach of the representations, warranties and agreements contained in this Attachment Supplier may refuse to enter into or perform any purchase order, and to cancel any purchase order, if Supplier in its sole discretion determines that such order could violate any applicable law or regulation of the United States, or any other governments. Supplier and Customer agree that any such refusal or cancellation of any purchase order, or termination of the Agreement by Supplier, as described above, will not constitute a breach of any of Supplier's obligations under the Agreement, and Customer hereby waives any and all claims against Supplier for any loss, cost or expense related thereto.