



GENERAL TERMS AND CONDITIONS OF SALE

1. Entire Agreement. These Terms and Conditions of Sale (which include any document(s) attached hereto or referencing these Terms and Conditions of Sale, including the Pooley Sales Quote or Proposal, the Pooley Order Confirmation, and the Pooley Invoice) (the "terms") constitute the entire, complete and exclusive agreement between the parties with respect to goods and/or services (a "deliverable" or the "deliverables") provided by Pooley, Incorporated ("Pooley") to the party identified in the Sold-To section of the Order Confirmation ("Purchaser"). If these terms are different from, or contain terms and conditions in addition to, Purchaser's purchase order or any other document provided by Purchaser (including any modifications thereto) Pooley expressly rejects such different or additional terms in Purchaser's document, and Pooley's provision of the deliverables is expressly conditioned upon Purchaser's assent to these terms. Notwithstanding any other acts or omissions of the parties, Purchaser's acceptance of a product constitutes Purchaser's assent to all of these terms.

2. Order Acceptance; Changes. No order received by Pooley shall be a contract binding Pooley unless accepted by Pooley in writing. No changes or additions by Purchaser shall be effective as to any deliverable unless that change or addition is in writing by a duly authorized officer of Pooley. Following order acceptance, Pooley will not make changes in the deliverables unless Purchaser and Pooley have executed a written change order for such change. Such change order will include an appropriate price adjustment. If the change impairs Pooley's ability to satisfy any of its obligations to Purchaser, the change order will include appropriate modifications to the order, including as appropriate, price and time.

3. Delivery. Unless otherwise specified, delivery of goods shall be F.O.B. Pooley's facility and Purchaser assumes full responsibility for deliverables upon Pooley's delivery to a carrier at Pooley's facility. Pooley shall not be liable for any loss or damage to the goods after delivery, and Purchaser shall be liable to Pooley for the price regardless of any loss or damage after delivery. The delivery date indicated for any order or quote shall run from the later of the date of the acceptance of the order and the date on which all of Purchaser's commercial and financial (including advance payment) obligations have been met. Except as specifically agreed by Pooley in writing, any dates quoted for delivery are approximate only. In the event of inability for any reason to supply the total demand for deliverables, Pooley may allocate its available supply among any or all purchasers, as well as departments, divisions and affiliates of Pooley, on such basis as Pooley may deem fair and practical, without liability for any failure of performance which may result therefrom.

4. Prices. All prices provided by Pooley, whether in its Sales Quote or Proposal, catalog, pricing software or otherwise, are subject to change and revision by Pooley at any time. The price specified in any quote for deliverables is exclusive of taxes and shipping related costs. Unless otherwise specified, payment shall be in United States funds. Price, currency, delivery terms, availability of deliverables and descriptions and specifications of deliverables are subject to change without notice until order acceptance. All orders are deemed made at Pooley's prices current at the time of acceptance and such price shall be stated in the Order Confirmation. Purchaser shall pay Pooley for all taxes, shipping related costs or other charges which Pooley may be required to pay upon the sale, transportation or use of the deliverables. If Purchaser desires to claim exemption from any tax due as a result of this agreement, then Purchaser shall provide Pooley with a properly completed and valid exemption certificate.

5. Payment. At Pooley's option the price and any applicable taxes, shipping related costs or other charges is due and payable on or before delivery, or if invoiced by Pooley, payable net 30 days of invoice date with a 1% discount if paid in full within 10 days of invoice date. If Purchaser fails to make payment when due, in addition to Pooley's other rights and remedies Purchaser agrees that (i) past due payments shall bear interest at 1½% per month from their due date or the maximum permitted by law if a lesser amount; (ii) Purchaser shall be responsible for all expenses of collection (including reasonable attorneys' fees) incurred by Pooley in the event of partial payment or non-payment by Purchaser; and (iii) Pooley may suspend performance without responsibility or liability to Purchaser for resultant delay. Purchaser shall not be entitled to make any deductions or set off of any amounts (including those for alleged damages) against payments due to Pooley hereunder.

6. Returns/Cancellation Policy. No returns or deduction should be made except upon Pooley's written authorization in Pooley's sole discretion. Restocking and cancellation fees coincide with each individual manufacturers' policies. Special, made to order items may not be returned. Orders accepted by Pooley can be cancelled only with the written consent of Pooley in Pooley's sole discretion and upon payment of such compensation as is determined by Pooley in its sole discretion. Any cancellation shall terminate all of Pooley's obligations with respect to the order.

7. Warranty. Pooley does not extend or supplement any warranty above or beyond the individual manufacturers warranty policy. Please inquire for a copy of each manufacturers' written terms and conditions. POOLEY MAKES NO REPRESENTATION OR WARRANTY OF ANY TYPE, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE or warranty of non-infringement or warranty arising from any course of dealing, course of performance or usage of trade.

8. LIMITATION OF LIABILITY. EXCEPT FOR INJURY TO THE PERSON, PURCHASER'S OR ANY OTHER PERSON'S SOLE AND EXCLUSIVE REMEDY AGAINST POOLEY FOR POOLEY'S LIABILITY OF ANY KIND WITH RESPECT TO ANY DELIVERABLE, OR ANY OTHER ACT OR OMISSION OF POOLEY, SHALL BE LIMITED TO THE REMEDY, AT POOLEY'S OPTION, OF REPAIR, REPLACEMENT OR REPERFORMANCE OF THE SERVICES PROVIDED THAT IF REPAIR, REPLACEMENT OR REPERFORMANCE BECOME IMPRACTICABLE, THEN PURCHASER'S SOLE AND EXCLUSIVE REMEDY SHALL BE A RETURN OF EITHER THE FULL OR A PROPORTIONATE PART OF THE PRICE FOR SUCH DEFECTIVE DELIVERABLE, AND IN NO EVENT WILL POOLEY'S LIABILITY EXCEED THE PRICE ALLOCABLE TO AND ACTUALLY RECEIVED BY POOLEY FOR THE DELIVERABLE GIVING RISE TO THE CLAIM. POOLEY SHALL UNDER NO CIRCUMSTANCES BE LIABLE TO PURCHASER OR ANY OTHER PERSON FOR ANY OTHER DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOSS OF USE, REVENUE OR PROFIT), OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, EVEN IF POOLEY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Indemnity. Purchaser agrees, to the maximum extent permitted by law, to indemnify, defend, and hold harmless Pooley and its affiliates, employees, agents, representatives, shareholders, directors, officers, members, managers, and insurers, against and from all alleged or actual liability, claims, demands, liens, damages and expenses, including reasonable legal fees incurred by Pooley, arising out of any act, omission or use of the deliverables by Purchaser or any employee, agent or subcontractor of Purchaser, or any breach by Purchaser of these terms, regardless of the action or claim.

10. Governing Law. These terms shall be governed by and construed in accordance with the laws of the State of New York, without regard to its principles of conflicts of laws, and shall not be governed by the provisions of the United Nations Convention on Contracts for International Sales of Goods. The parties agree that all actions or proceedings between them shall be tried and litigated only in the state and federal courts located in the County of Erie, State of New York USA. and each party waives any rights as to inconvenient forum.

11. Force Majeure. Pooley shall not be liable for loss, damage, detention or delay nor deemed to be in default by reason of force majeure or for any cause beyond its reasonable control. In the event of any delay in Pooley's performance due in whole or in part to force majeure or any cause beyond its reasonable control, Pooley shall have such additional time for performance as may be reasonably necessary under the circumstances without liability to Pooley.

12. Severability/Revision. Should any provision of these terms be held by a court of law, or other body having proper jurisdiction to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of these terms shall not be affected or impaired thereby and the parties agree that partial enforcement of these terms or revisions of the illegal, invalid or unenforceable provision is appropriate.