

MSA / SELLER TERMS AND CONDITIONS OF CONTRACT FOR SALE

1. **ACCEPTANCE.** These terms and conditions shall exclusively govern the sale of products between Buyer and Seller and shall prevail over any prior, supplemental, inconsistent, or conflicting terms or conditions contained or referred to in any purchase order or other documentation submitted by Buyer or elsewhere implied by trade, custom, practice, or course of dealing. No such terms and conditions shall become part of the resulting contract and shall be ineffective. Should this writing be construed as an acceptance, such acceptance is EXPRESSLY MADE CONDITIONAL ON BUYER'S ASSENT TO ANY TERMS AND CONDITIONS CONTAINED HEREIN THAT ARE DIFFERENT FROM OR ADDITIONAL TO THOSE CONTAINED IN BUYER'S WRITING. Should this writing be construed as an offer, acceptance hereof is EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN. In any event, Seller objects to any terms and conditions of Buyer, and Buyer's acceptance of products shall constitute unqualified acceptance of these Terms and Conditions of Sale. Notify Seller immediately if these terms are unacceptable - failure to object to these terms shall conclusively establish Buyer's acceptance of them. These Terms and Conditions of Sale, along with Seller's terms and conditions furnished in connection with its quotation (if applicable), shall be the final, complete, and exclusive written expression of agreement between Buyer and Seller, constituting the entire contract between Buyer and Seller and superseding all previous proposals, warranties, representations, promises, and other communications, either oral or written, relating to its subject matter. Modification of these terms and conditions is valid only if provided in writing signed by Seller. ATTENTION: Please note for products intended to be used in hazardous (classified) location, review product certification details on the MSA website at www.msasafety.com

2. **PURCHASE ORDER PROCESS.** Buyer shall place orders for Seller's products and/or services to be purchased hereunder by submitting one or more written purchase orders to Seller. Each such purchase order must state the Seller part number and other description of items and quantities to be ordered, the requested shipment date, and shipping address. No other terms or conditions set forth on a Buyer purchase order shall form part of any resulting agreement between Buyer and Seller, and fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms and Conditions of Sale. Buyer shall cooperate in any follow-up requests or clarifications from Seller on such purchase orders. No purchase order is binding upon Seller except pursuant to a written order acknowledgment, pursuant to Section 1 above.

3. **STANDARD PRODUCTS; RELATED SERVICES.** All products are Seller's commercial, off-the-shelf items and Seller shall have no obligation to ensure that any product operates in conjunction with any product or service provided by Buyer or a third party. Any service provided by Seller incidental to Buyer's purchase of the products shall be covered by these Terms and Conditions of Sale, as well as, where applicable for software-as-a-service, the relevant Terms of Use and Cloud Subscription Services Agreement of Seller and/or its affiliates. Seller has the right, at its sole discretion, to discontinue any product. For products provided under an equipment lease as part of the MSA+ program, any conflict between these Terms and Conditions of Contract for Sale and the terms of the MSA+ Master Equipment Lease shall be resolved in favor of the MSA+ Master Equipment Lease, including but not limited to the fact that Seller is a lessor and Buyer is a lessee under that program.

4. **DELIVERY.** Promises of shipments or lead times do not in any way constitute a reservation as materials are at all times subject to prior orders. Promises of shipment of materials are based upon promises received from suppliers thereof and may change at any time without Buyer's consent. Seller shall not be liable for any delay or failure to produce, process, ship or deliver occasioned by Force Majeure, which term is defined to include all circumstances and actions whatsoever beyond the direct and immediate control of Seller. Without limiting the foregoing, the following are non-exclusive examples of Force Majeure Acts of God; war between the United States and any foreign country; civil war; riot or insurrection; preparation for war; urgency or intervention of civil, naval or military authorities or other agencies of government, including agencies concerned with the preservation of the environment; government orders; blockades; embargoes; vandalism; sabotage; epidemics; strikes; lockouts; industrial disturbances; earthquakes; landslides; accidents; floods; hurricanes and cyclonic storms; shortages of fuel, power, raw materials, or component parts; delays in delivery of materials; government priorities; and delays of carriers by land, sea or air. Risk of loss shall pass to the Buyer upon delivery to the carrier on shipments made F.O.B. Place of Shipment, and upon tender of shipment when made F.O.B. Point of Destination. If any shipment or delivery is delayed due to Buyer's request, act, or omission, then payments will become due as if shipment or delivery had occurred as scheduled. In case of such delay of shipment, any physical equipment will be stored by Seller at Buyer's risk and expense. Buyer shall carefully inspect any product upon receipt and make any claims for damage or shortage within a reasonable time after receipt, not to exceed ten (10) days. After such period, the products will be presumed accepted unless Seller receives written notification indicating a lawful basis for rejection. Buyer bears all expenses caused by improper rejection.

5. **PRICES AND PAYMENT.** Where these terms are attached to a quotation, the price of the products is subject to change without notice, unless otherwise noted on the face of the quotation. The price quoted above does not include transportation charges and said charges shall be paid by Buyer upon delivery, or as indicated on the quote, order acknowledgement, or invoice. In the event that transportation charges are paid by Seller, Buyer will reimburse Seller for the cost thereof, forthwith upon demand. The amount of any and all present or future taxes or other governmental charges upon the production, shipment, installation or sale, of the equipment covered hereby, including use or occupation taxes, shall be added to the purchase price paid by the Buyer, or in lieu thereof, the Buyer shall furnish the Seller with tax exemption certificate(s) acceptable to the taxing authorities, or other basis for exemption. If progress payments are specified on the front page hereof, payments are to be made on account as the work progresses; that is to say, on the 15th day of each month for the proportion of the work done the preceding calendar month less fifteen (15) percent, an additional payment of ten (10) percent of the contract price is to be made when the equipment is shipped, and the remaining five (5) percent not later than sixty (60) days after date of shipment. A proportionate amount of the final payment shall become due as above on the completion of each unit. If progress payment or other payment terms are not set forth on the front page hereof, payment in full of the contract price, amounts due for additional work or changes, and escalation shall be due thirty (30) days net after the date of Seller's invoice. Should Buyer fail to make payment within the requisite period, Seller shall be entitled to (i) reasonable costs and expenses incurred in connection with actions taken to enforce collection and protect its rights, including without limitation reasonable attorneys' fees, and (iii) interest at the rate of one (1) percent per month from due date shall be charged on overdue accounts, or the highest amount permitted by law - whichever is lower. Buyer may not set off any invoiced amounts against sums due or alleged to be due from Seller.

6. **INVOICING AND BILLING.** For purposes of invoicing and billing, each shipment hereunder shall be treated as a separate and independent contract.

7. **WARRANTY AND DISCLAIMERS:** Unless another period appears on the face of this writing or in Seller's manual, Seller warrants that any product furnished to Buyer, except software or software components, shall be free from mechanical defects or faulty workmanship for a period of one (1) year from first use or eighteen (18) months from date of shipment, whichever occurs first, provided such product is installed, maintained and used in accordance with Seller's instructions and/or recommendations. This warranty does not apply to expendable or consumable parts whose normal life expectancy is less than one (1) year (e.g., non-rechargeable batteries, filament units, instrument filters, lamps, fuses, helmet suspensions, limited-use clothing, gloves, etc.) or to products whose life is controlled by government regulations such as cylinders. Rubber-containing products including, but not limited to, facepieces, hard harnesses, and nose cups are warranted against defects in workmanship for dry rotting of the rubber for a period of 5 years from the date of manufacture. Software and software components, including any documentation designated by Seller for use with them, are provided "AS IS" and with all faults, unless provided otherwise in a separate license agreement or other document. Replacement parts and repairs are warranted for ninety (90) days from the date of repair of the product or sale of the replacement part, whichever occurs first. Seller shall be released from all obligations under this warranty in the event repairs or modifications are made by persons other than its own or authorized service personnel or if the warranty claim results from misuse, neglect, or misapplication of the product. No agent, employee or representative of Seller may bind Seller to any affirmation, representation or modification of the warranty concerning any product sold by Seller. Seller makes no warranty concerning components or accessories not manufactured by Seller, but will pass on to Buyer all available warranties of manufacturers of such components. Seller does not guarantee accuracy or completeness of its technical information, specifications, literature, and other printed materials, and reserves the right to change such information without notice to Buyer. **THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, STATUTORY, OR OTHERWISE, AND IS STRICTLY LIMITED TO THE TERMS HEREOF. SELLER SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. SELLER MAKES NO WARRANTY WITH RESPECT TO SOFTWARE OR ANY SOFTWARE COMPONENT OF A PRODUCT, WHETHER SOLD OR LICENSED (INCLUDING WITHOUT LIMITATION ANY CLICKWRAP LICENSE AGREEMENT), INCLUDING WHETHER SUCH SOFTWARE WILL OPERATE IN CONJUNCTION WITH ANY OTHER SOFTWARE OR WITH ANY EQUIPMENT OTHER THAN THE PRODUCTS, AND SELLER MAKES NO WARRANTY THAT SUCH SOFTWARE OR SOFTWARE COMPONENTS OF A PRODUCT WILL OPERATE ERROR-FREE OR FREE OF HARMFUL CODE. EXPRESS WARRANTIES IN THIS SECTION DO NOT APPLY TO ANY PRODUCT OR COMPONENT (INCLUDING, WITHOUT LIMITATION, ANY SOFTWARE COMPONENT) THAT HAS BEEN ALTERED, MODIFIED, OR REPAIRED EXCEPT BY SELLER OR ITS AUTHORIZED DESIGNEE. SELLER MAKES NO WARRANTY, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, REGARDING ANY THIRD-PARTY PRODUCT, BUT WILL PASS ALONG ANY WARRANTY IT RECEIVES FROM A THIRD PARTY WHERE AVAILABLE. THIS WARRANTY RUNS EXCLUSIVELY TO BUYER AND NO OTHER PERSON (INCLUDING ANY CUSTOMER OF BUYER OR ANY END USER).**

8. **EXCLUSIVE WARRANTY REMEDY.** IT IS EXPRESSLY AGREED THAT BUYER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THE ABOVE WARRANTY, FOR ANY TORTIOUS CONDUCT OF SELLER, OR FOR ANY OTHER CAUSE OF ACTION, SHALL BE THE REPAIR AND/OR REPLACEMENT, AT SELLER'S OPTION, OF ANY PRODUCT OR PART THEREOF, WHICH AFTER EXAMINATION BY SELLER, IS PROVEN TO BE DEFECTIVE. REPLACEMENT PRODUCT AND/OR PARTS WILL BE PROVIDED AT NO COST TO BUYER, F.O.B. SELLER'S PLANT. FAILURE OF SELLER TO EFFECTIVELY REPAIR ANY NON-CONFORMING PRODUCT SHALL NOT CAUSE THE REMEDY ESTABLISHED HEREBY OR ANY LIMITATION OF LIABILITY IN THIS CONTRACT TO FAIL OF ITS ESSENTIAL PURPOSE.

9. **LIMITATION OF LIABILITY.** Buyer is solely responsible for evaluating and selecting products and determining whether a product is fit for its particular use. Any software updates must be immediately implemented by Buyer (and passed along to Buyer's customer, where Buyer is a reseller); otherwise, Seller is fully released from any liability hereunder for any claim, loss, damage, or otherwise arising or resulting from Buyer's or its customer's failure to install the upgrade. NOT WITHSTANDING ANYTHING TO THE CONTRARY IN THIS CONTRACT, THE PARTIES HEREBY AGREE THAT (i) SELLER'S AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SALE OF PRODUCTS AND/OR PROVISION OF SERVICES TO BUYER, REGARDLESS OF THEORY OR CAUSE OF ACTION, SHALL NOT EXCEED THE AGGREGATE PURCHASE PRICE PAID BY BUYER FOR SUCH PRODUCTS OR SERVICES; (ii) UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE TO BUYER FOR ECONOMIC, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS, LOSS OF REVENUE, MISSED OPPORTUNITY, LOSS OF USE OR LOSS OR CORRUPTION OF DATA OR IMPAIRED GOODWILL, AND ANY OTHER LOSS CAUSED BY REASON OF THE NONOPERATION OF ANY PRODUCT OR SERVICE UNDER THIS CONTRACT OR ANY OTHER BETWEEN BUYER AND SELLER. THIS EXCLUSION IS APPLICABLE REGARDLESS OF THE THEORY OF CLAIM, INCLUDING BUT NOT LIMITED TO CLAIMS FOR BREACH OF WARRANTY, TORTIOUS CONDUCT OR ANY OTHER CAUSE OF ACTION.

10. **DISCLAIMER OF TORT LIABILITY.** BUYER SPECIFICALLY UNDERSTANDS AND AGREES THAT SELLER AND ITS OFFICERS, AGENTS AND EMPLOYEES SHALL NOT BE LIABLE IN TORT - WHETHER BASED ON NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY OF TORT LIABILITY - FOR ANY ACTION OR FAILURE TO ACT IN RESPECT TO THE MANUFACTURE, PREPARATION FOR SALE, SALE, DELIVERY OR SERVICING OF ANY PRODUCT OR SERVICE PROVIDED BY SELLER. IT IS THE PARTIES INTENT TO ABSOLVE AND PROTECT SELLER AND SELLER'S OFFICERS, AGENTS AND EMPLOYEES FROM ANY AND ALL TORT LIABILITY.

11. **NON-DIVERSION.** The sale, export and re-export of MSA products, technologies and services are subject to all the laws and regulations of the United States. Diversion contrary to U.S. law is strictly prohibited. MSA products may not be sold, exported or re-exported to any person or entity designated as prohibited or restricted by an agency of the U.S. government.

12. **SELLER CANCELLATION:** In the event that (a) Buyer files a voluntary petition initiating any proceeding under the United States Bankruptcy Code with respect to itself; (b) Any involuntary petition initiating a proceeding under the United States Bankruptcy Code is filed against Buyer and such petition is not dismissed within thirty (30) days; (c) Buyer is adjudicated as bankrupt; (d) Buyer makes an assignment for the benefit of its creditors or takes the benefits of any insolvency laws; (e) A receiver is appointed for Buyer or for a substantial part of its property and such appointment is not discharged within sixty (60) days; (f) Buyer shall admit in writing its inability to pay its debts generally as they become due; (g) Any governmental body or agency condemns or requisitions any significant asset of Seller; (h) Buyer fails to post security requested by Seller within fifteen (15) days after the request; or (i) Buyer shall commit any breach of the contract and shall fail to remedy such breach within seven (7) days after the giving of notice thereof by Seller to Buyer in writing by certified mail or courier, then and in all or any such cases the Seller may by notice to Buyer in writing by certified mail or courier cancel any resulting contract so far as any future performance by Seller is concerned but without prejudice to the rights and remedies of either parties arising out of any antecedent performance or breach.

13. **BUYER CANCELLATION:** After ten (10) days of placing any order, Buyer may not cancel or alter such order without Seller's written consent. Even with Seller's written consent, Buyer shall reimburse Seller for any labor and expense incurred through Seller's consent, plus a reasonable percentage for profit.

14. **CREDIT; NONWAIVER.** For the purpose of invoicing and billing, each shipment hereunder shall be treated as a separate and independent contract, subject always to approval of Seller's credit officers. If Buyer fails to fulfill the terms of payment in every respect, Seller is not obligated to make delivery and may resort to the remedies provided by law or herein. Seller reserves the right, previous to making delivery, to require from Buyer satisfactory security for performance of Buyer's obligations.

15. **TIMING OF CLAIM.** All suits by Buyer shall be barred unless filed within one (1) year of the date when the claim or cause of action accrues. This shall not preclude assertion after that period of action by Seller to recover the purchase price of products sold hereunder. Seller and Buyer agree that a reasonable time within which Buyer must notify Seller in writing after discovery of any alleged breach by Seller is within forty-five (45) days of discovery, and that failure of Buyer to provide timely notice of breach will bar Buyer from any remedy for said breach.

16. **GOVERNING LAW; JURISDICTION.** All questions arising hereunder or in connection with any quotation or order and/or the performance of the parties hereunder shall be interpreted and resolved according to the laws of the Commonwealth of Pennsylvania, as effective and in force on the date of said contract and without regard to its conflicts of laws provisions. The U.N. Convention on Contracts for the International Sale of Goods is expressly excluded from such application. Exclusive venues for any suit initiated by Buyer shall be either the Pennsylvania state court in Allegheny County, Pennsylvania or the United States District Court for the Western District of Pennsylvania. Buyer hereby agrees to submit to the jurisdiction of said courts and appoints the Secretary of the Commonwealth of Pennsylvania as its agent for the service of process in the event Seller wishes to commence an action against Buyer.

17. **INTELLECTUAL PROPERTY OWNERSHIP & INFRINGEMENT.** If any products or services provided by Seller are prepared or based upon Buyer's specification or instruction, Buyer shall indemnify and hold harmless Seller from and against any claim or liability for patent, trademark, service mark, trademark, or other alleged violation of intellectual property, including reimbursement of reasonable attorneys' fees and court costs.

18. **NOTICES.** Any notice or communication permitted or required hereunder shall be in writing and shall be delivered in person or by courier or mailed by certified or registered mail (USPS, UPS, or FedEx), postage prepaid, return receipt requested, to the parties at the addresses set forth on the face of any Order Acknowledgment or to such other address that may be designated by the received party in writing. If notice is given in person or by courier, it shall be effective upon receipt; if notice is given by mail, it shall be effective three (3) business days after deposit in the mail.

19. **CONFIDENTIAL INFORMATION.** Seller may provide to the Buyer, or the Buyer may otherwise gain access to, certain confidential business or technical information with respect to the Seller's operations, business plans or intellectual property that a reasonable person should know or understand to be confidential (the "Seller Confidential Information"). The Buyer shall not disclose, or permit the disclosure of, any Seller Confidential Information to any third party without the express prior written consent of the Seller. The Buyer shall use the Seller Confidential Information only for purposes of using or operating the products provided hereunder as contemplated by the parties, and Buyer shall not make any other use thereof without the express prior written consent of the Seller. Without limiting the generality of the foregoing, the Buyer shall limit the use and disclosure of the Seller Confidential Information to those of its employees who need such information for the purposes of this Agreement, and the Buyer shall ensure that each employee who has access to the Seller Confidential Information complies with the obligations set forth above. Any security breach of Buyer's systems that results in the disclosure of Seller Confidential Information shall be reported to Seller within three (3) business days.

20. **MISCELLANEOUS.** This contract may be assigned by Seller without Buyer's prior consent but is not assignable by Buyer without the prior written consent of Seller. Seller reserves the right to change these Terms and Conditions of Sale at any time, regardless of notice. If any provision or a portion of a provision of this contract is determined to be illegally, invalid, or unenforceable, the validity of the remaining provisions will not be affected and will remain in full force and effect. All waivers must be in writing. The failure of a party to insist upon strict performance of this contract, or to exercise any right provided for herein, shall not be deemed to be a waiver for future such provision or right, and no waiver of any provision or right of the waiving party to enforce any other provision or right. Headings and subheading are for convenience and not part of the contract. Provisions by their nature that should continue in force beyond completion or termination (e.g., limitation of liability) shall survive. The parties are independent contractors. The rights afforded by Seller to Buyer in this contract are unique to Buyer and no third-party beneficiary is intended to benefit from such rights.

Rev. May 1, 2023