



17312 Eastman, Irvine, CA 92614 * Tel (949) 250-0087 * Fax (949) 250-8832
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TERMS AND CONDITIONS OF SALE

1. General

These General Terms and Conditions of Sale shall govern all business transactions for the sale of products or services between Min-E-Con LLC and the Buyer of such Products. These General Terms and Conditions will not be modified unless specifically agreed to in writing by an Executive Officer of Min-E-Con LLC.

Any terms or conditions set forth on any documents or forms utilized by Buyer and any communications (written or oral) between Min-E-Con LLC and Buyer that are inconsistent with or are not included with these Terms and Conditions shall be of no effect unless signed by an Executive Officer of Min-E-Con LLC.

These Terms and Conditions supersede any prior written or oral agreements or any standard terms on any Order, Invoice, acknowledgment, or similar document exchanged between Min-E-Con LLC and Buyer.

If Min-E-Con LLC and Buyer specifically agree to different terms and conditions in writing, such terms and conditions shall be exclusive only and under a separate agreement.

Terms inconsistent with those stated herein which may appear on Buyer's formal order will not be binding to Min-E-Con LLC and Conditions not specifically stated herein shall be governed by established trade customs.

All quotations, orders and agreements are contingent upon strikes, accidents, fires, availability of materials, transportation failures, act of the Buyer, restrictions by civil or military authorities and all other causes beyond Min-E-Con LLC's control. Min-E-Con LLC will not be held liable or incur any penalty clause unless specifically approved in writing by an Executive Officer of Min-E-Con LLC.

Buyer agrees to accept either overage or shortage not more than ten percent (10%) to be charged for pro-rata.

Buyer assumes liability for patent and copyright infringement when goods are made to Buyer's specifications.

Min-E-Con LLC and Buyer agree that nothing in these General Terms and Conditions of Sale will create any agency, employment, partnership, or joint venture between Buyer and Min-E-Con LLC.

All clerical errors are subject to corrections.

Min-E-Con LLC, Confidential

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2. PRICES AND TAXES

Product prices are subject to change without notice. All Orders are accepted to Min-E-Con's prices and the validity period stated on quotations. Min-E-Con LLC quotations are valid 30 calendar days from the date issued and can be terminated by notice within that period. Product prices are quoted in U.S. Dollars and shall be paid in U.S. Dollars. Any applicable taxes will be invoiced to the Buyer unless, at the time of Order, Buyer furnishes Min-E-Con LLC with a certificate of exemptions.

Min-E-Con LLC may correct errors or omissions in quoted prices and/or change its prices at any time without notice.

Min-E-Con LLC is a privately-owned company.

Min-E-Con LLC does not have any published price lists. All price and cost structures are proprietary and not available for review or audit. Sell price is based on the cost of component parts, plus labor, marked up to yield a reasonable profit

Min-E-Con LLC represents and warrants that the prices quoted are no higher than the price quoted or would quote to other customers, including the US Government, for contemporaneous sales of comparable items, in the same or substantially similar volumes, and under substantially comparable items and conditions.

Prices quoted are not in violation of any Federal or State statute.

When quotation specifies material to be furnished by the Buyer, ample allowance must be made for reasonable spoilage and material must be of suitable quality to facilitate efficient production.

TAXES: Prices quoted for Products specified are exclusive of all city, state and federal excise taxes, include, but without limiting the generality of the foregoing, taxes on manufacture, sales, receipt, gross income, occupation, use, and similar taxes. Whenever applicable, such tax or taxes will be added to the invoice as a separate charge to be paid by Buyer. In the event Min-E-Con LLC is required to pay any such tax or duty, the Buyer shall reimburse Min-E-Con LLC or in lieu of such payment, shall provide Min-E-Con LLC at time of purchase submit with exemption certificate or other document acceptable to taxing or custom authorities.

3. ORDER REQUIREMENTS

All Orders are subject to acceptance by Min-E-Con LLC. Min-E-Con LLC reserves the right to reject any Order submitted. All clerical, typographical or other errors regarding sales information or documents, quotations, invoice, order acknowledgement issued by Min-E-Con LLC are subject to corrections and without any liability. Buyer must provide Min-E-Con LLC with a valid purchase order.

All Orders must specify the following:

- Min-E-Con Product part number
- Customers drawing and revision when applicable
- Requested delivery date
- Applicable price
- Quantity
- Billing location to which invoices will be sent for payment or accounting email address
- Shipping address to which the Product is to be shipped
- Method of shipment along with Customers account number for freight billing unless prepaid add to invoice for Domestic orders. International orders must specify a freight account number, Min-E-Con LLC will not prepay/add freight to invoices.

Upon acceptance of order by Min-E-Con LLC, issued by Buyer, Buyer's acknowledgment that Min-E-Con's General Terms and Conditions of Sale will apply. No additions or modification to these General Terms and Conditions of Sale will be binding to Min-E-Con LLC unless agreed to in writing and signed by an authorized representative of Min-E-Con LLC. Min-E-Con LLC's failure to object to any term or condition in any means of communication with Buyer will not be construed as an agreement to such terms or conditions.

All orders are subject to a minimum order quantity set forth at time of quotation.

Standard Catalog product will require a minimum order quantity to meet a US \$150.00 per line item purchase.

Custom Product deviating from a Catalog Product are subject to an adjusted minimum order quantity and a higher US dollar per line item purchase which will be set forth by Min-E-Con LLC.

4. PAYMENT TERMS

Unless otherwise stated on quotation or on the Order, payment terms shall be net thirty (30) days from the date of invoice. Buyer's do not set their own terms with Min-E-Con LLC. Any extended terms by Min-E-Con LLC to Buyer will be based upon Min-E-Con's contentment with Buyer's creditworthiness on payment history. Net 30 terms or extended terms may be re-evaluated always by Min-E-Con LLC.

Min-E-Con LLC does not accept credit card, DD250 orders or offer discounted terms.

Min-E-Con LLC reserves the right to suspend Buyer's credit terms and demand cash in advance (CIA) or cash on delivery (COD) for all or any part of the Order. Under any unsatisfactory credit situation with Buyer, Min-E-Con LLC may withhold shipment without incurring any liability.

If Buyer shall fail to pay any invoice when due, Min-E-Con LLC may demand immediate payment and at Min-E-Con's following options:

- Suspend delivery of any Order or any remaining balance thereof until such payment is made.
- Cancel any Order or any remaining balance thereof for breach.
- Recover all costs of any collection.
- Repossess the Products for which payment has not been made.
- Charge interest at one and one-half point percent (1.5%) per month on the past due amount and not to exceed the interest percentage allowed by law.

Order for Products with be invoiced upon shipment. Buyer shall pay all amounts due in full without any deduction, withholding except as required by law or as agreed to in writing by Min-E-Con LLC.

Min-E-Con LLC reserves the right to withhold shipment and/or hold production processes to Buyers whose account(s) are not paid within terms. Withholding of shipments or holds in production does not relieve the Buyer of its obligation to pay for Products previously rendered. Min-E-Con LLC shall be entitled to defer delivery until any monies due from Buyer have been received.

5. CHANGES, SCHEUDLING, RESCHEDULING AND EXCUSABLE DELAY

CHANGES: Min-E-Con LLC reserves the right without the Buyer's consent and at no charge to Buyer, to incorporate any design modifications, engineering changes or improvements in the specification of Min-E-Con's Product provided that the fit, form, function, price and delivery schedule of Products are not affected and that the design of Products are not controlled by Buyer's specifications.

Any change to Order by Buyer due to drawing or design specifications, method of shipment, quantity or any other condition must be sent by written notice to Min-E-Con LLC. A Change Order shall only be in effect if accepted in writing by an authorized representative of Min-E-Con LLC. Any change that will incur a cost increase or alter production performance scheduling, an adjustment to Order shall be made in the price, schedule or both, and the Order shall be modified accordingly. Any order adjustment and/or change request by Buyer may require additional handling fees.

SCHEDULING AND RESCHEDULING: Depending on quantity purchased, volume Orders shall be scheduled for delivery within six (6) to twelve (12) months from the Order date unless stated otherwise between Min-E-Con LLC and Buyer.

Buyer may only reschedule an order with Min-E-Con LLC's written consent. A reschedule request should not extend further than an additional thirty (30) calendar days from original ship date unless agreed to by Min-E-Con LLC. Due to manual paperwork handling, there will be a \$100.00 rescheduling fee for all orders subject to reschedule within Min-E-Con's production issue period on Product or completed Orders ready for shipment.

EXCUSABLE DELAY: Min-E-Con LLC shall not be deemed to be in default on account of delays in the delivery of goods or in the performance of services to the extent it is beyond Min-E-Con's control and not occasioned by Min-E-Con's fault or negligence, provided that promptly upon the occurrence of any event which may result in a delay, Min-E-Con LLC shall give notice thereof to Buyer, which notice shall identify such occurrence and specify the period of delay which may be reasonably expected to result therefrom. In the event delivery of the goods or performance of services shall be delayed due to any cause beyond Min-E-Con's control and not occasioned by Min-E-Con's fault or negligence for

a period of more than thirty (30) days after the end of the calendar month in which delivery is otherwise required, Buyer shall have the option to terminate the order upon written notice given to the Supplier within five (5) business days after the expiration of such thirty (30) day period, and such termination shall discharge all obligations and liabilities of the parties hereunder with respect to undelivered goods, services, data or other items to be furnished hereunder.

6. CANCELLATION

Orders placed and accepted by Min-E-Con LLC will be considered firm, Non-Cancelable and Non-Returnable. Min-E-Con LLC reserves the right to purchase materials and begin manufacturing Product at any time for cost efficiency unless otherwise specified by the Buyer at time of quotation and or Order purchase. Min-E-Con LLC requires a 30-day minimum notice to stop production or alter scheduled deliveries. Cancellation charges will be applicable on all labor work in-process and materials ordered to manufacture Product. There will be an additional \$150.00 lot charge for paperwork handling.

Buyer agrees to pay Min-E-Con LLC for all costs associated with the cancellation of the order including, but not limited to as follows:

- Raw Materials
- Work in process
- Inventory carrying costs
- Scrapped material

Cancellation fee charged to Buyer shall be determined at the sole discretion by Min-E-Con LLC and may equal 100% of the amount of the order at the time of Min-E-Con's receipt of Buyer's request for cancellation.

If shipments are cancelled or reduced in quantity, Min-E-Con LLC reserves the right to invoice the Buyer with prices based on the actual shipped quantity.

7. DELIVERY, PACKAGING, DAMAGE, RETURNS AND RISK OF LOSS

DELIVERY: Domestic shipments will be delivered FOB Origin Min-E-Con LLC's facility in Irvine, California. Domestic shipments, Buyer to specify method of shipment and freight account number unless noted to prepay and add to invoice. In the absence of specific instructions on domestic shipments, Min-E-Con LLC will use the best and economic surface method of shipment.

International shipments will be delivered EXW (Incoterms 2010) Min-E-Con LLC's facility in Irvine, California. International shipments, Buyer must specify method of shipment and freight account number, Min-E-Con will not prepay add freight to invoices. International shipments, Buyer's account is liable for all customs, duty, tariffs and all International fees.

Buyer is responsible for all shipping and handling costs, including applicable storage, insurance or other cost associated with delivery or pick up of Products.

Buyer acknowledges that the delivery dates provided by Min-E-Con LLC are only an estimation of lead times and shall not be binding on Min-E-Con LLC. Min-E-Con LLC does not have control over transit once Product leaves their facility. Min-E-Con LLC takes pride with On-Time delivery and Min-E-Con will use reasonable efforts to deliver Product close to the Buyer requested delivery schedule and based on Min-E-Con's quoted lead times after receipt of Order.

PACKAGING: Min-E-Con LLC shall provide adequate protective packaging to prevent damage and deterioration of the Products. Buyer will be responsible for the cost of any special packaging or special handling of Product.

DAMAGE AND RISK OF LOSS: Min-E-Con LLC will not be held responsible for any breakage or damage after receipt of Product at Buyer's facility due to carriers handling. All claims for loss and or damage by carrier must be made by the Buyer direct to specified carrier. Claims for shortages or incorrect materials must be made in writing to Min-E-Con LLC within thirty (30) days after receipt of shipment. Min-E-Con LLC shall not be liable to Buyer for the cost of inspection, removal, and installation.

RETURNS: Buyer shall accept or reject the Products within thirty (30) calendar days after the delivery, otherwise the Product shall be deemed accepted.

All non-conformance Products require a Return Materials Authorization (RMA) issued by Min-E-Con LLC prior to the return of material by Buyer. Returned Materials to Min-E-Con LLC must be packaged properly without damage and are subject to final inspection upon receipt.

Defective Product disposition as Min-E-Con's fault will be credited, repaired or replaced at Min-E-Con's expense. Defective Product not fault by Min-E-Con LLC, the Buyer is subject to charges for rework, repair or replacement and freight as required.

8. TERMINATION

Min-E-Con LLC reserves the right to purchase all material for Buyer's order upon receipt of purchase regardless of current lead times quoted or outside Min-E-Con's lead times.

Upon giving a thirty (30) days prior written notice to Min-E-Con LLC, Buyer may terminate, in whole or in part, and If such termination right is invoked, all reasonable costs incurred up to the date of termination will be reimbursed to Min-E-Con LLC.

If Product is terminated for any reason, the Buyer shall not be excused from performing its obligations under Order Agreement or Contract with respect to payment for all monies due Min-E-Con LLC hereunder including fees, costs and expenses reasonably incurred by Min-E-Con LLC up to and including the Termination Effective Date.

9. WARRANTY

Min-E-Con LLC warrants that the Products furnished will be free from any defects in material or workmanship and the Product will conform in all material respects to the Specifications for a period of twelve (12) months after delivery. Buyer must notify Min-E-Con LLC within thirty (30) calendar days after the delivery of any defected Product. In the absence of such timely notice, it shall be conclusively presumed the Products are free from defect and Min-E-Con LLC will not incur any liability as to such goods sold to Buyer. In no event shall Min-E-Con LLC be held liable for collateral or consequential damages.

Exclusions: Min-E-Con LLC's warranty shall not apply to Products that have seen conditions as follows:

- Subject to abuse, misuse, neglect, tampering, accident, improper installation, improper storage.
- Repaired, altered physical or electrical properties by any person other than those expressly authorized by Min-E-Con LLC.
- Subjected to testing for other than specified electrical characteristics or to operating and/or environmental conditions more than the maximum values established in the applicable specifications.
- Obtained from source other than Min-E-Con LLC.

The warranty is void If any damage to Product that results from continued use after a suspected defect is or should have been identified.

MIN-E-CON'S WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL. EXPRESSED OR IMPLIED BY APPLICABLE LAW, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT WITH RESPECT TO THE PRODUCTS AND DELIVERABLES. IN NO EVENT SHALL MIN-E-CON LLC'S LIABILITY UNDER THIS WARRANTY EXCEED THE COST OF REPAIR OR REPLACEMENT OF SUCH DEFECTIVE PRODUCT. BUYER AGREES THAT ALL SUCH OTHER REPRESENTATIONS AND WARRANTIES THAT ARE NOT PROVIDED ARE HEREBY EXCLUDED AND DISCLAIMED.

10. NO PARTNERSHIP OR JOINT VENTURE

The Parties agree that nothing in these General Terms and Condition of Sale will create any agency, employment relationship, partnership, or joint venture between Buyer and Min-E-Con LLC. The Parties shall not be entitled to create any obligations on behalf of the other Party, except as expressly contemplated by this Agreement. The Parties will not enter into any contracts with third parties in the name of the other Party without the prior written consent of the other Party.

11. DISCLAIMER AND LIMITATION OF LIABILITY

TO THE FULLEST EXTEND PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, ACTUAL OR ANTICIPATED LOST REVENUE OR PROFITS, LOSS OF BUSINESS OPPORTUNITY OR GOODWILL, LOSS OF ANTICIPATED SAVINGS, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, LOSS OF DATA, DOWNTIME COSTS, SORTING COSTS, OR ANY LOSS DUE TO DELAY OF PERFORMANCE OR DELIVERY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER DISCLAIMS ALL LIABILITY RELATIVE TO GRATUITIOUS INFORMATION OR ASSISTANCE PROVIDED BY, BUT NOT REQUIRED OF SELLER HEREUNDER. THE TOTAL LIABILITY, IF ANY, OF SELLER, AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES AND SUBCONTRACTORS INCLUDING BUT NOT LIMITED TO LIABILITY ARISING OUT OF CONTRACT, TORT, BREACH OR FAILURE OF WARRANTY, OR OTHERWISE, SHALL NOT IN ANY EVENT EXCEED THE PURCHASE PRICE PAID BY BUYER FOR THE PRODUCT AND/OR SERVICES FROM WHICH THE CLAIM AROSE. THE PRICE STATED FOR THE PRODUCTS AND SERVICES IS A CONSIDERATION IN LIMITING BUYER'S LIABILITY

12. INDEMNIFICATION

Each Party hereto shall defend, indemnify, and hold harmless the other Party and its affiliates and their respective directors, officers, employees, and successors from and against any claims, actions, suits, demands, damages, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorneys' fees and costs) ("Claims") which incurred in connection with any claim, demand, suit, or proceeding by a third-party: (a) arising from or related to property damage, personal injury or death caused by the indemnifying Party's Products: (b) arising from negligence or willful misconduct of the indemnifying Party; or (c) arising from failure to comply with applicable laws or regulations.

13. INTELLECTUAL PROPERTY RIGHTS & CONFIDENTIALITY

Min-E-Con LLC will maintain sole and exclusive ownership of all Intellectual Property related to the Products manufactured. No right of license in such Intellectual Property is granted to the Buyer by implication, estoppel or otherwise to the extent, expressly set forth herein. Intellectual Property shall mean any intellectual and industrial property rights including, but not limited to, patents, copyrights, authors' right, trademarks, brands, domain names, trade secrets, drawings, specifications, logos, plans, product trade secrets and any rights related that is not generally available to the public, software and any sort of data, technical, manufacturing processes, prototypes, methods and any technical related documents or other designs.

With exception of Products manufactured in accordance with Buyer's drawings or specifications, Min-E-Con LLC will indemnify and hold Buyer harmless against all liability and expenses, including attorneys' fees, arising from actual or claimed infringement or violation of patent, trademark, or copyright, including, but not limited to, improper, false, and/or invalid patent, trademark, and/or copyright markings, misappropriation of trade secrets, breach of confidential relationship, or other rights occasioned by the manufacture, sale or use of the goods and/or services provided under the order.

CONFIDENTIALITY

If a separate non-disclosure agreement (NDA) relating to the subject matter of the order exists between Min-E-Con LLC and Buyer, all Confidential Information furnished by one Party to the other Party shall be protected pursuant to such NDA.

If there is not a separate NDA existing between the Parties, then neither Party shall disclose the other Party's Confidential information to any person other than its employees, officers, directors, affiliates, agents, subcontractors and representative who are bound by obligation of confidentiality and who have a need to know such information to perform their obligations in connection with the Order.

14. TOOLING AND DATA

Unless expressly agreed in writing, Min-E-Con LLC shall retain title to and possession of all specifications, drawings, engineering instructions, data, material, equipment, software, processes, models, tooling, including without limitations, all patterns, dies, molds, jigs, fixtures, and test equipment made, obtained, or procured for the performance of an Order, except to the extent that title is specifically transferred in writing from Min-E-Con to Buyer or originally supplied from Buyer to Min-E-Con.

15. NORTH AMERICAN FREE TRADE AGREEMENT & EXPORT CONTROLS

Min-E-Con LLC agrees to become familiar with the requirements of NAFTA, provide annual certification to Buyer of NAFTA qualification, maintain adequate records to support such qualification, and follow all applicable regulations under NAFTA when issuing certificates of origin and/or other documents which allow Buyer to take advantage of the duty-free status.

All Parties' shall comply with the laws and regulations of the United States of America (USA) relating to exports and foreign transactions with the International Traffic in Arms Regulations (ITAR), the Arms Export Control Act, the Export Administration Regulation (EAR) and the Export Administration Act of 1979.

The Buyer shall be responsible for all export authorizations needed for any export or re-export of products. If Buyer exports or re-exports the Products or Deliverables, Buyer will, at its own expense, pay for all export licenses, custom charges, duties, tariffs and related fees, and take all other actions required to accomplish the legal distribution of the Products or Deliverables obtained by Buyer.

Buyer shall not, directly or indirectly, sell, distribute, export or re-export, (nor enable any third party to sell, distribute, export or re-export) any Products or Deliverable provided hereunder to any embargoed, terrorist or restricted country as designated by the U.S. Government or any other country with which commerce or export may be restricted, prohibited or otherwise limited by the U. S. Government or by the Territorial government (whether now or in the future) except as allowed by law. Buyer further agrees to provide Seller upon request written assurances of compliance with the requirements of this provision

Min-E-Con LLC is a registered Manufacturer with Directorate of Defense Trade Control (DDTC).

16. FORCE MAJEURE

Min-E-Con LLC will not be liable for any loss, damage or delay arising out of the failure, or that of its subcontractors, to perform due to causes beyond reasonable control including without limitation, acts of God, acts or omissions of Buyer, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, acts of terrorism, delays in transportation, or transportation embargoes. In the event of such delays, Min-E-Con's performance date(s) will be extended for such length of time as may be reasonably necessary to compensate for the delay.

17. COMPLIANCE WITH GOVERNING LAWS AND LANGUAGE

Min-E-Con's Terms and Conditions and Orders will be governed by and construed in accordance with the laws of the State of California and all Parties consent to the personal jurisdiction of the courts of the State of California. Each Party shall comply with all statutes, laws, ordinances, regulations, rules and orders enacted or adopted by any federal, state, local, municipal or other authority or governmental body which may pertain to the conduct of the Parties' business and their obligations hereunder. The Parties' shall obtain and pay for all permits, fees and licenses required to perform their respective obligations hereunder. These General Terms and Conditions of Sale shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. All Parties' further agree that the English language shall be the controlling language of these General Terms and Conditions of Sale.

18. SELL PRICE AND FAVORITE CUSTOMER CLAUSE

Min-E-Con LLC is a privately-owned company. Our Company financial records including books, cost accounts, and financial statements shall properly document all assets and liability, accurately reflect all transactions, and be maintained in accordance with our company policy. These records are proprietary and not available to the Buyer and/or public.

Min-E-Con LLC does not have any published price lists. All price and cost structures are proprietary and not available for review or audit. Sell price is based on the cost of component parts, plus labor, marked up to yield a reasonable profit

Min-E-Con LLC certifies that prices herein do not exceed the unit prices quoted by Min-E-Con LLC to the US Government or other customers in substantially similar transactions. Prices quoted are not in violation of any Federal or State statute.

19. CODE OF ETHICS AND CONDUCT

Min-E-Con LLC holds itself and its employees to the highest standards of lawful and ethical conduct. Min-E-Con's Code applies to company ownership, officers, employees, and in certain respects to suppliers and representatives and everyone must obey applicable laws and regulations.

Min-E-Con's proprietary information must be safeguarded. All proprietary information includes our ideas, drawings, financial information, customer documents, business plans, and other information intended to not be disclosed. All proprietary information may never be disclosed without proper and written authorization from Min-E-Con LLC. All proprietary information provided by suppliers, customers, or competitors must and will be protected and respected.

20. INSURANCE

Each Party will always keep its business and properties insured against such risks for which insurance is usually maintained by similarly situated reasonably prudent Persons engaged in a similar business (including insurance for hazards and insurance against liability because of damage to Persons or property and insurance under all applicable workers' compensation laws). The insurance maintained shall be in such monies and with such limits and deductibles usually carried by similarly situated Persons engaged in the same or a similar business.

21. MISCELLANEOUS

The provisions of these Terms and Condition, together with the provisions contained within any accepted order (but expressly excluding any of the terms and conditions proposed by the Buyer) constitutes the entire agreement and supersedes all prior agreements, of the Parties hereto relating to the subject matter hereof. Any amendment to or variation of these Terms and Conditions, an Order or any part thereof shall only be effective if made in writing and signed by a duly authorized representative of the Parties. If any provision of these Terms and Conditions or any Order shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the remaining provisions of such Terms and Conditions or Order, all of which shall remain in full force and effect. The parties hereto are independent contractors, and nothing herein shall be construed to create a partnership, joint venture, franchise, fiduciary, employment or agency relationship between the Parties.

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