

Custom Panel & Controls, LLC Terms and Conditions Governing Orders for Supplies and Services

1. Terms. Applies to all purchase orders from Custom Panel to Seller and shall be deemed an offer irrespective of any prior communications between Custom Panel and Seller. Seller shall be deemed to accept all of these terms and conditions when Seller executes the acknowledgment or when Seller commences to deliver any goods or services to Custom Panel. Any proposal for additional or different terms or any attempt by Seller to vary in any respect any of the terms in Seller's acceptance or in its quotation or by attachment of Seller's terms and conditions, or by any other means is hereby objected to and rejected.

2. Shipping and Packing. Seller shall comply with the following packing and shipping requirements.

(a) Unless otherwise specified, all Goods shall, at Seller's expense be stored, packed and/or packaged to: (i) insure safe arrival at their ultimate destination; (ii) secure the lowest transportation costs; (iii) comply with requirements of common carriers; and (iv) be clearly marked if items are specially packed for any reason (e.g. climatic exposure, contamination, expiration or end use date, etc.). All Goods that contain hazardous or toxic materials or require special labeling shall be clearly and properly marked and labeled and include the applicable material safety data sheets.

(b) If terms of shipment [e.g., F.O.B.,] are designated on the face of the Order such terms shall prevail as to risk of loss. Unless otherwise so specified, Seller shall bear the risk of loss of, or damage to, the Goods and Services covered by the Order until delivered to Custom Panel's facility or to such other place as may be designated on the face of the Order.

3. Taxes. Except as may be otherwise provided in a specific order, the contract price includes all applicable federal, state, and local taxes, and all custom duties and charges.

4. Payment. Unless otherwise specified in a specific order, Custom Panel shall pay invoices on Custom Panel's normal days of payment. Payment, however, shall not constitute acceptance of the Goods or Services. The date for cash discounts shall commence on the date the Goods/Services are received or the date of the receipt of a proper invoice whichever is later.

5. Delivery. Time is of the essence and all deliveries shall be made in strict accordance with the delivery schedule in the order. Failure to receive goods by the date specified shall be an event of default.

6. Inspection. All Goods purchased under the Order are subject to final inspection and approval at Custom Panel's plant or final destination. Custom Panel reserves the right to reject and refuse acceptance of Goods not in accordance with the Order. Goods not accepted will be returned at Seller's expense, and Seller will refund any payments that it may have received from Custom Panel including original shipment expenses

7. Warranty.

(a) Seller hereby warrants that all Goods will (i) be free from defects in material, workmanship, and design, (ii) will operate without error and conform to the applicable Order and specifications, drawings, samples and descriptions, (iii) will be merchantable and be fit for the intended use identified or reasonably inferred from all circumstances, and (iv) be free and clear of all liens, claims, encumbrances and other restrictions (collectively "Warranty").

(b) The Warranty shall: (i) extend to Custom Panel and its Customer(s), and (ii) remain in effect for twenty-four (24) months from date of receipt by Custom Panel or twelve (12) months from date of Customer's first commercial use of Custom Panel's products which incorporate the Seller's goods and services, whichever period shall last expire ("Warranty Period") During the Warranty Period, Seller shall, at its sole cost, immediately take all actions necessary to correct defects, errors or any other failure that cause a breach of the Warranty, including but not limited to replacing any component or part thereof causing such breach.

8. Indemnification. Seller shall defend, indemnify and hold harmless Custom Panel against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, whether or not a lawsuit or other proceeding is filed, that arise out of (a) any defect in the goods or services purchased under the Order, (b) any negligent act or omission of Seller, its agents, or subcontractors, (c) Seller's failure to fully conform to all laws, ordinances, rules and regulations which affect the goods and services (d) inaccurate, erroneous or incomplete country of origin information, or export control classification numbers. This indemnification shall be in addition to any warranty obligations of Seller.

9. Laws and Regulations. Seller shall conform with all laws, ordinances, rules and regulations which affect the goods and services of Seller.

10. Hazardous Material Requirement. Seller shall provide a current Material Safety Data Sheet ("MSDS") for all hazardous materials shipped to Custom Panel under this Order. The MSDS shall be in such form as required by the OSHA Hazard Communication Standard.

11. Export Regulations Requirements. The Products supplied by Seller may be resold or incorporated into Custom Panel's products to be shipped to a destination outside of the United States. The Commerce Control List of the United States Bureau of Industry and Security designates export control classification numbers ("ECCNs") for certain products, technology and software that may be exported from the United States. Seller shall furnish Custom Panel with the applicable ECCNs for all Products and technical data supplied under this Purchase Order. Seller warrants that all ECCNs

furnished to Custom Panel shall be accurate and complete in all respects. Seller shall cooperate with Custom Panel and shall furnish such further information and documentation relating to Seller's Products and technical data as Custom Panel may reasonably require.

12. PROPRIETARY RIGHTS, RESERVATIONS AND CUSTOM PANEL MATERIALS.

12.1 Proprietary Information. Seller may receive or become exposed to Custom Panel's proprietary information, including but not limited to designs, specifications, instructions, forecasts, trade secrets, data or "know how" (collectively "Proprietary Information") Additionally, Seller may develop, solely or jointly with Custom Panel, written, graphic and/or machine readable designs, specifications, data or any other information pertaining to the Goods which is deemed commissioned at Custom Panel's request and direction and shall be considered a "work-made-for-hire" under the copyright laws of the United States and Proprietary Information. Proprietary Information shall not include information that (a) is already known by Seller prior to the disclosure by Custom Panel; (b) is or becomes available to the general public through no act or fault of Seller; or (c) is rightfully disclosed to Seller by a third party not under a similar obligation to maintain the information in confidence.

12.2 Confidentiality. Seller agrees to maintain the confidentiality of all Proprietary Information, and specifically agrees (a) to take all actions reasonably necessary under the circumstances to maintain the confidentiality of the Proprietary Information; (b) to use Proprietary Information only in Seller's preparation for or performance of this Order; (c) to limit access to Proprietary Information to only those employees within Seller's organization who have a need to know, and inform these employees of the provisions of this clause; (d) not to use Proprietary Information for the benefit of any person or entity other than Custom Panel; and (e) not to transmit or disclose Proprietary Information to others without the prior written consent of Custom Panel.

12.3 Title to drawings and specifications. Custom Panel shall at all times have title to all drawings and specifications furnished by Custom Panel to Seller. Seller shall use such drawings and specifications only for Custom Panel. Upon Custom Panel's request, Seller shall promptly return all drawings and specifications to Custom Panel

13. Seller's Design. (a) Seller warrants that all goods provided shall not rely, be based upon, or infringe upon any other material, or will violate or infringe upon any Intellectual Property Right of any third party, including, but not limited to rights relating to patents, trademarks, copyrights and trade secrets.

(b) Seller hereby indemnifies and will defend and hold Custom Panel harmless against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, whether or not a lawsuit or other proceeding is filed, that arise out of any claim against Custom Panel alleging that Seller's goods, by themselves or as incorporated in Custom Panel's products infringe or misappropriate any third party's Intellectual Property Rights, except for any claims where the sole basis for the alleged infringement or misappropriation arises from Seller's compliance with a specific Custom Panel design or technical specification which gives rise to such claim. Should the goods, or any part thereof, become or be likely to become the subject of any infringement claim for which Seller is obligated to indemnify Custom Panel above, then in addition to its indemnity obligations herein, Seller shall also, without additional cost to Custom Panel, (a) procure for Custom Panel the right to continue using such goods without liability of any kind; (b) modify the goods so that they are not infringing without loss of functionality or increased costs of use, operation or maintenance and to otherwise permit Custom Panel to fully enjoy the rights purchased hereunder at the levels enjoyed by Custom Panel or (c) replace the infringing portions of the goods with non-infringing substitutes.

14. Termination for Convenience. (a) Custom Panel may, at its sole option, terminate any outstanding order in whole or in part, for its convenience, by written notice to Seller. Upon such termination Seller shall immediately stop work under and shall place no further orders or incur no further cost chargeable to Custom Panel as to the terminated portions except, as to necessary action and costs to protect property in Seller's possession. Seller shall be entitled to the following payments, without duplication, in full settlement: (i) the order price for goods completed and accepted by Custom Panel; (ii) the actual costs incurred by Seller which are properly allocable or apportionable under standard generally accepted accounting practices, to the terminated portion of this order, without any allowance for profit or overhead.

(b) Seller will use its best efforts to mitigate such termination charges as directed or authorized by Custom Panel, including and without limitation, (i) efforts to sell the goods or materials and (ii) by using or returning to inventory, at cost, all items of the type carried in inventory by Seller or which are useable by Seller, and so credit Custom Panel therefor.

15. Default and Cancellation.(a) Each of the following shall constitute a default under any order and Custom Panel reserves the right to cancel, at no cost to Custom Panel, all or any part of any order or orders if (i) Seller fails to make progress as to endanger performance of the Order and does not cure such failure within a period of 10 business days after receipt of notice from Custom Panel, or (ii) Seller does not make deliveries as provided in the Order, or (iii) if Seller breaches any of the terms contained herein, or (iv) in the event of the happening of any of the following: insolvency of Seller; filing of a voluntary or involuntary petition in bankruptcy which is not vacated within 30 days from date of filing; the appointment of a receiver or trustee for Seller; the execution of an assignment for the benefit of creditors or the execution of a composition with creditors of any agreement of like import.

(b) If the Order is canceled for default, Custom Panel shall be entitled to all remedies under the UCC.

16. Governing law. The parties rights and responsibilities to each other shall be determined under Virginia law, without giving effect to its choice of law principles.

The parties consent to the exclusive personal and subject matter jurisdiction of the courts of the United States and the State of Virginia, located within the City of Virginia Beach. If Custom Panel substantially prevails in any such action, the Seller shall indemnify Custom Panel for any costs, expense (including expert witness fees) and attorneys' fees.

17. Subcontracts. Seller may not assign or subcontract the order, or any portion thereof, without the prior written consent of Custom Panel. The term "subcontract" as used in this clause means a contract for the purchase of an item or items to Seller's specifications, designs, or drawings. The term does not include the purchase of standard commercial supplies or raw materials.

18. Non-waiver by Custom Panel. The failure of Custom Panel to insist upon strict performance of any of the terms of the Order, or to exercise any right, shall not be construed as a waiver or relinquishment to any extent of Custom Panel's right to assert or rely upon any such terms or rights on any future occasion.

19. Incidental or Consequential Damages. Seller hereby waives any claim for any incidental or consequential damages.

20. Notice. Any notification which Seller may have to issue to Custom Panel pursuant to the terms of this Order must be in writing and addressed to Custom Panel's President at the address or fax number that appears on the face of the Order. Any notification to Seller shall be in writing and addressed to Seller at Seller's address or fax number that appears on the face of the Order. All notices shall be sent by U.S. Mail, nationally recognized courier, or by email.

21. Survival and Construction. The terms, provisions, representations and warranties contained in the Order shall survive the delivery and acceptance of the Goods, provision of the Services and any payment made under the Order and shall be binding upon the successors and assigns of each party. Headings and captions herein are merely for convenience and are not part of the Order and shall not in any way affect or modify the provisions of this Order.

22. Entire Agreement and Modification. These terms constitute the entire agreement between the parties, and any and all prior agreements relating to the subject matter are hereby voided. Any change, addition or deviation to the terms shall be evidenced by a writing signed by Custom Panel.

23. Severability. If any provision is declared by a court of competent jurisdiction to be invalid, void or unenforceable, every other provision shall continue in full force and effect.

Seller Name & Address: _____

By:

Signature

Printed Name & Title

Date