



TERMS & CONDITIONS OF SALE - Alencon Systems LLC

1. **DEFINITIONS.** The Seller is Alencon Acquisition Co. LLC, trading as Alencon Systems, LLC, a Delaware limited liability company, and the Purchaser is identified in the Seller's Proposal. The equipment consists of the products/equipment identified in the Seller's Proposal.

2. **EFFECT OF TERMS AND CONDITIONS.** Purchaser's order is its agreement to purchase the equipment in accordance with Proposal and these Terms. No waiver, alteration or modification of, or addition to, any of the provisions hereof or of Seller's Proposal or these Terms (whether incorporated in Purchaser's order or elsewhere) shall be binding upon Seller unless agreed to in a writing signed by an officer of Seller. Purchaser's acceptance shall be conclusively demonstrated by submission of a purchase order, payment of a deposit, acceptance of delivery or other action indicating Purchaser's intent to be bound. Seller agrees to sell and deliver the equipment to Purchaser on the express conditions that: (a) Purchaser accepts these Terms without reservation; (b) the Contract Documents constitute the complete and exclusive agreement between Purchaser and Seller relating to the subject matter thereof; and (c) Seller is not bound by any provisions, printed or otherwise, varying from or supplementing its Proposal or these Terms that may appear in any purchase order or other document of Purchaser. In case of any inconsistency between these Terms and Seller's Proposal, the Proposal shall control.

3. **CREDIT/PAYMENT.** Payment terms are stated on the Seller's proposal. Accounts not paid when due shall bear interest at the rate of 1.5% per month until paid. Seller reserves the right at any time to suspend its performance, to suspend credit or to change credit terms when, in Seller's sole opinion, the financial condition of Purchaser so warrants. Failure to pay invoices when due shall (at Seller's option) accelerate the due date of any and all unpaid invoices; and, Seller may withhold its performance and deliveries until Purchaser's account has been fully paid. Purchaser will pay all bank fees, whether related to wire transfers, currency conversion, returned checks, or otherwise.

4. **TOOLING.** Specially designed tools and dies for which Seller makes a separate charge shall remain the exclusive property of Seller, and may not be removed by Purchaser. Seller will use reasonable efforts to maintain such tooling as long as needed to supply parts to Purchaser without further charge and will not permit use by or for parties other than Purchaser without Purchaser's consent.

5. **QUOTATIONS.** Prices in Proposals are subject to review and adjustment by Seller due to lapse of time or Purchaser's order changes. Seller also reserves the right to correct clerical or typographical errors without penalty or liability.

6. **CANCELLATION.** Purchaser's order is not subject to suspension, cancellation, change or reduction in amount, unless prior to such action Purchaser has obtained Seller's written consent. Seller may condition its consent on, among other things, Purchaser's reimbursing Seller for all out-of-pocket expenses, liabilities, commitments and expected profits.

7. **SELLER'S LIMITED WARRANTY.** Seller's warranty for any new equipment manufactured by it and sold to Purchaser is as stated in the version of Alencon Systems Power Electronics Hardware Warranty Terms and Conditions in effect at the time of Seller's Proposal, unless stated to the contrary in Seller's Proposal. Any repairs or replacement parts not authorized by Seller shall void the warranty. Purchaser's sole remedy for any such defects in equipment covered by Seller's warranty shall be refund, repair or replacement (at Seller's option) of such parts as are determined by Seller to be defective. For any



equipment, materials or components not manufactured by Seller, Seller makes no warranties with respect thereto, but agrees to make reasonable efforts to assign to Purchaser any manufacturer warranties if requested by. Seller shall have no liability for alleged defects with equipment which are not specified in written notice from Purchaser to Seller within the applicable warranty period and only then if Purchaser has paid for the equipment and otherwise fulfilled its obligations to Seller. Seller shall not be responsible for repair or replacement of items which have been subject to neglect, accident, or improper storage or use, or which have been altered by other than personnel authorized by Seller. Also, Seller shall not be responsible for damages, injuries or death caused as a result of incorrectly assembled parts or devices that have been assembled by personnel not authorized by Seller.

8. LIMITATION OF LIABILITY AND REMEDY. THE EXPRESS WARRANTIES OF SELLER CONTAINED IN THE PROPOSAL AND THESE TERMS ARE IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE DISCLAIMED. THE WARRANTY REMEDY PROVIDED HEREIN SHALL BE THE SOLE AND EXCLUSIVE REMEDY OF THE PURCHASER HEREUNDER, AND IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT SUCH DAMAGES ARE EITHER CAUSED BY OR RESULT FROM THE NEGLIGENCE OF THE SELLER OR ITS MANUFACTURER. IN ANY EVENT, SELLER'S LIABILITY HEREUNDER SHALL BE LIMITED TO THE PURCHASE PRICE OF THE EQUIPMENT WITH RESPECT TO WHICH LIABILITY IS CLAIMED, WHETHER OR NOT THE CLAIM IS BASED ON NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. Neither Seller's representatives, distributors nor agents are authorized to offer any warranty (oral or written) concerning the equipment, and Purchaser should not rely on any such statements. Anything herein to the contrary notwithstanding, any action for alleged breach by Seller of the parties' contract, including but not limited to any action for breach of the warranties herein set forth, shall be barred unless commenced by Purchaser within one (1) year from the date such cause of action accrued.

9. DAMAGE AND INJURY. Purchaser will notify Seller within ONE (1) DAY of any accident involving equipment which results in property damage, injury or death. Purchaser agrees to release, defend, indemnify and save Seller harmless from any claims, liability or expenses (including attorneys' fees) for property damage, injuries or death where safe and prudent procedures in connection with the use of said equipment have not been followed by Purchaser, its customer or other party not under Seller's control, or failure of Purchaser to give proper warnings or instructions.

10. TAXES. The prices quoted do not include any federal, state or local taxes. Purchaser is responsible for paying any such taxes and shall reimburse Seller for all taxes, VAT, excises, duties, license fees or other charges which Seller may be required to pay pursuant to the production, use, sale or transportation of the equipment.

11. DELIVERY; RISK OF LOSS. Seller will not be liable for any damages for failure to deliver within a stipulated or requested time, but will use reasonable efforts to make delivery within such time. Unless otherwise indicated hereon, shipment may be made by the method or carrier deemed most desirable by Seller. Risk of loss to the equipment shall pass to Purchaser when such equipment has been delivered in accordance with the Proposal (or the following Section if the Proposal is silent). Title shall pass to Purchaser upon payment in full. Seller reserves the right to make delivery in installments. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of an installment shall not relieve Purchaser of the obligation to accept



remaining deliveries. Any claims by Purchaser for erroneous charges, deficiencies or imperfections must be made within thirty (30) days of the date of delivery; otherwise, such claims are deemed waived. No equipment may be returned to Seller without its prior written authorization.

12. FREIGHT AND HANDLING. The listed prices are FOB Seller's Pennsylvania facility (INCOTERMS 2020). Costs for packing, as determined by Seller according to destination and carrier requirements, are additional and shall be paid by Purchaser. Notwithstanding any agreement to pay freight, delivery of equipment to a carrier shall constitute delivery to Purchaser and be determinative of the date and time of shipment and all risk of loss or damage in transit shall be borne by Purchaser. If the Purchaser fails to accept the equipment from the carrier, the Seller shall nonetheless be entitled to payment from Purchaser. Seller may arrange for storage, with the risk and the cost, including insurance costs, to be borne by Purchaser (which will pay such amounts upon demand).

13. ETHICS. Purchaser will uphold the highest ethical standards and is aware of, and agrees to fully comply with and to cause its agents and employees to comply with, the US Foreign Corrupt Practices Act and other laws dealing with bribery of government officials. Further, Purchaser agrees to provide Seller with End-User Certificates in form required by Seller or applicable law for all products and services provided by or on behalf of Seller.

14. CHANGES IN COMPONENTS. Seller reserves the right in its sole discretion to substitute components of the equipment, provided the operation of the equipment is not adversely affected thereby. Seller reserves the right to discontinue the manufacture of any equipment or to change materials, design or specifications without prior notice.

15. CREDIT. Seller reserves the right, at any time, to revoke any credit extended to Purchaser because of failure to pay for any equipment or materials when due or for any other reason deemed good and sufficient by Seller and in such event, all subsequent shipments shall be paid for prior to or at delivery at Seller's option.

16. INDEMNITY. Seller or its affiliates may from time to time come to Purchaser's premises for purposes such as training, installing/servicing equipment, etc. Except for losses caused directly by the gross negligence or willful misconduct of Seller while on the premises, Seller shall not have any liability to Purchaser or any third parties arising out of their presence or activities on the said premises; and, Purchaser agrees to release, defend, indemnify and hold harmless Seller for all such losses or claims. Further, Purchaser shall release, indemnify, defend and hold Seller harmless from and against all claims, suits, judgments, costs, losses, expenses (including attorneys' fees) and liabilities arising from or related to infringement (actual or claimed) of patents, copyrights or trademarks arising for compliance with Purchaser's design, specifications or instructions and the fulfillments of Purchaser's order, as well as from any breach by Purchaser of these Terms or other Contract Documents.

17. BINDING EFFECT; ASSIGNMENT. These Terms and other Contract Documents shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns; however, Purchaser shall not assign its rights or duties hereunder (by operation of law or otherwise) without the prior, written consent of Seller. Purchaser represents and warrants that it has not purchased any special materials, employed additional services or incurred other expenses in reliance on its contract with Seller. Any such expenses require the prior written consent of Seller. Purchaser agrees that the Terms and other Contract Documents are fair and reasonable, and compliance therewith will not cause any



hardship to Purchaser. Seller is not responsible for any costs incurred by Purchaser in fulfilling Purchaser's duties under this Terms and other Contract Documents or caused by lawful termination thereof.

18. NOTICES. Any notice or request to be given shall be in writing in the English language and shall be deemed to have been duly given on the date of delivery if delivered personally, by telefacsimile or electronic mail (with confirmation of receipt in either case), or by recognized overnight international courier on the party to whom such notice or request is to be given, to the last known address for such party or such other address as directed in writing from time to time.

19. SEVERABILITY. If any provision of these Terms or other Contract Documents or the application thereof to any party or circumstance be held invalid or unenforceable, the remainder of thereof and the application of such provisions to other parties or circumstances will not be affected thereby and to this end the provisions of these Terms and other Contract Documents are declared to be severable. No waiver of any of the provisions of these Terms or other Contract Documents shall be deemed to be or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. No failure of a party hereto to insist upon strict compliance by another party hereto with any obligation, covenant, agreement or condition contained in these Terms or other Contract Documents shall operate as a waiver of any subsequent or other failure. Neither these Terms nor any other Contract Documents may be modified by any custom or course of dealing between the parties.

20. HEADINGS. The headings contained in these Terms are for the convenience of reference only and shall not constitute a part hereof or define, limit or otherwise affect the meaning of any of the terms or provisions hereof. These Terms and the other Contract Documents (which are incorporated therein) constitute the entire agreement between the parties and merge all prior discussions and negotiations between them. Neither of the parties shall be bound by any conditions, understandings or representations with respect to the subject matter hereof other than as expressly stated in the Contract Documents.

21. PROPERTY RIGHTS. Purchaser shall acquire no right, title or interest in any tangible or intangible property, patent, copyright, trade secret, trademark or other intellectual property of Seller, including those related to the equipment. Purchaser may not attempt to duplicate or reverse engineer any equipment or use the name or any mark of Seller without its prior, written consent, which may be withheld or withdrawn at Seller's sole discretion.

22. FORCE MAJEURE. Except for Purchaser's payment of money, if either party shall be delayed, hindered, interrupted in or prevented from the performance of any of its obligations hereunder by reason of force majeure ("Force Majeure"), including, without limitation, earthquake, flood or other acts of God, fire, explosion, war (declared or undeclared), warlike conditions, pandemic, embargo, public disaster, terrorism, riots, strike or labor differences, unavailability of materials or transportation facilities, government action or order, or any other action beyond such party's reasonable control, such party shall not be liable to the other party therefor and the time for performance of such obligation shall be extended for a period of time equal to the duration of the contingency which occasioned such delay, hindrance, interruption or prevention.



23. EXPORT COMPLIANCE. Purchaser will not export or re-export, directly or indirectly, any equipment, materials or technical data (as defined by the U.S. Export Administration regulations, or their successors) provided by Seller to a destination to which such export or re-export is restricted or prohibited by U.S. or non-U.S. law without obtaining prior authorization from the U.S. Department of Commerce and/or other competent government agencies to the extent required by law; or export or re-export, directly or indirectly, any equipment, materials, component or product of such technical data, including software, to a destination to which such export or re-export is restricted or prohibited by U.S. or non-U.S. law without obtaining prior authorization from the U.S. Department of Commerce and/or other competent government agencies to the extent required by law. Specifically, Purchaser also agrees not to directly or indirectly provide or export any equipment, materials or technical data supplied by Seller for use in The People's Republic of China, Hong Kong, Iran, the Russian Federation or Belarus.

24. GOVERNING LAW. This transaction shall be governed by the laws of the Commonwealth of Pennsylvania without giving effect to choice of law provisions and excluding the U.N. Convention on Contracts for the International Sales of Goods. The parties consent to the exclusive jurisdiction of the courts of Pennsylvania or US federal courts therein in any litigation that arises from, or is related to, these Terms. Purchaser agrees to pay all of Seller's collection and other costs and expenses, including reasonable attorneys' fees. The parties' agreement shall be written in the English language with no enforceable counterparts in any other language. Purchaser waives any right it may have under the laws of any territory to have the parties' agreement written in the native language or any language other than English.