

GENERAL TERMS AND CONDITIONS OF SALE AND SERVICE

Stoebich Fire Protection Systems, Inc.
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These General Terms and Conditions of Sale and Service (these “Terms”) are applicable to all customers (the “Customers” and each, individually, a “Customer”) of Stoebich Fire Protection Systems, Inc., a Delaware corporation (the “Company”).

1. Terms and Conditions of Sale:

1.1. Company’s sale of products (hereinafter, the “Products”) and performance of any services (hereinafter, the “Services”) described on or in any quotation, proposal, order confirmation, order acceptance, invoice, sales agreement and/or service agreement issued in writing by Company, or any combination thereof (each, a “Sales Document” and collectively, the “Sales Documents”), shall be governed solely by the terms and conditions of the Sales Documents and those specified in these Terms. The Sales Documents and these Terms taken together shall constitute the entire agreement between Company and Customer regarding the sale of Products and performance of any Services (collectively, the “Agreement”).

1.2. No other terms or conditions shall be of any effect unless otherwise specifically agreed to by Company in a separate written agreement duly signed by an officer of the Company. Any additional or different terms or conditions contained in Customer’s order or other communication from Customer, whether written or oral, are hereby objected to and rejected by Company and shall be of no effect. No terms or conditions of a Customer in any order, Customer website, Customer document, or otherwise shall at any time form a part of the content of any contract or agreement (including, but not limited to, an Agreement) between the Customer and the Company, even if they are not further expressly rejected by the Company. If any of these Terms conflict with the Sales Documents, the specific terms in the applicable Sales Document shall prevail over these Terms.

1.3. Unless otherwise agreed in writing by Company, all prices included in quotations for Products are valid for a period of ninety (90) days from the date issued by Company. Subsequent modifications in quantity or quality, if such are requested by Customer, generally will cause a modification of the quoted price. If any such modification is outside of the scope of the initial quotation, the specific terms shall be documented through a change order mutually agreed upon by Company and Customer.

1.4. No order is binding upon the Company until the earlier of acceptance of the order in writing or the delivery of the Products or the Services to the Customer by Company. Writing under this Section 1.4 shall include transmission by telefax or electronic means from Company to Customer. Notwithstanding any prior acceptance of an order by Company and without limiting Company’s other rights and remedies, Company may suspend or terminate performance and delivery and shall have no further obligation, if: (a) the Customer is in breach of any of its obligations hereunder, or any other agreement (including, but not limited to, an Agreement) between the Customer and Company; or (b) Customer becomes insolvent or files for bankruptcy or has a bankruptcy proceeding filed against it.

1.5. All verbal agreements concerning the terms of any order, including, but not limited to, agreements made by telephone, shall have no force and effect unless and until acknowledged and agreed to by the Company in writing.

1.6. No orders for Products or Services accepted by Company may be cancelled or modified by Customer for any reason without Company’s prior written approval. Customer shall bear all costs associated with the cancellation or modification of an order accepted by Company.

2. Prices:

2.1. Unless otherwise stated in the Company’s order confirmation, all prices are DDP (Incoterms 2010) from such

location of Company or its affiliate as stated in the order confirmation.

2.2. The price of the Products and any Services shall be the Company's current prices in effect at the time of delivery of Products or performance of Services, as the case may be. Unless expressly specified otherwise in the Sales Documents, the price does not include any sales, use, personal property, excise, transfer or other tax, nor any duties or assessment, arising out of or related to Products, Services, or their respective purchase and sale which may be imposed by any governmental authority, all of which will be the obligation of, and paid by, Customer. In the event that Company pays any such tax, duty or assessment, Customer will reimburse Company in accordance with the terms of Section 3.1 hereof. Customer is responsible for obtaining and providing to Company any certificate of exemption or similar document required to exempt any sale from sales, use or similar tax liability. Prices do not include the cost of any applications, inspections or approvals, which may be required for the installation or commissioning of the Products at the end customer location. Customer shall be solely responsible to obtain and maintain all required approvals, certifications, permissions, and licenses in order to install and commission the Products.

2.3. Without limiting the foregoing Section 2.2, unless expressly specified otherwise in the Sales Documents, the price also does not include any transportation costs or insurance, costs of customs formalities necessary for export and import as well as duties, taxes and other charges payable upon export and import of the Products, and the division of such costs, taxes and duties is governed by the applicable incoterm. To the extent any such costs, taxes or duties are not addressed by the applicable incoterm, Customer will be responsible for all such costs, taxes and duties.

2.4. Company may, without notice to Customer, increase the price of the Products and Services by the amount of: (a) any new or increased tax or duty (excluding franchise, net income and excess profits taxes) which Company may be required to pay on the manufacture, sale, transportation, delivery, export, import or use of the Products or the materials required for their manufacture or which affects the cost of such materials, or the performance of Services; or (b) an increased exchange rate.

3. **Terms of Payment:**

3.1. Unless otherwise stated in the Sales Documents, twenty five percent (25%) of the amount invoiced shall be due and payable within ten (10) days of Company's acceptance of Customer's order, twenty five percent (25%) of the amount invoiced shall be due and payable within ten (10) days of Company's notification to Customer that Company made the Products available for shipping or is ready to perform the Services, as the case may be, and fifty percent (50%) of the amount invoiced shall be due and payable within ten (10) days after delivery of the Products or completion of the Services, as the case may be. Customer shall make payments by check or wire transfer to the account indicated on the Company invoice without a cash discount or offset, and the Company shall not be required to incur any expense to receive timely payment in full as required by an Agreement.

3.2. If the Customer fails to make a payment in full on or before the date required, Customer shall pay interest to the Company at the rate of one point five percent (1.5%) per month or such maximum amount permitted by applicable law. The specification or charging of interest shall not be deemed an agreement to extend credit.

3.3. If Customer fails to observe these Terms or the terms of any other agreements (including, but not limited to, an Agreement) between Company and Customer, or if Customer becomes insolvent, all balances then due and owing to the Company shall become due immediately, notwithstanding any agreed upon payment periods. Without limiting Company's other rights and remedies, any orders that have been accepted by the Company via written order confirmation shall in such cases become cancelable at the sole discretion of Company.

3.4. Customer shall not have a right of set-off or deduction under any circumstances.

4. **Delivery Terms:**

4.1. Unless otherwise stated in Company's order confirmation, the Products shall be delivered DDP (Incoterms 2020) to the point of destination designated by Company in the order confirmation. Title to and risk of loss for the Products shall pass to Customer upon delivery of the Products at the point of destination. Each Product delivery shall be accompanied by a delivery note. The purchase order item, order number and full details of the point of destination and recipient shall be indicated in all shipping documents and on the outside of the packaging. If it is not possible to

deliver, Company shall notify Customer within a period of two (2) weeks after becoming aware and shall refund Customer for any consideration already paid. In the event of its own delay or impossibility of performance, Company shall only be obligated to compensate for damages caused by intent or gross negligence.

4.2. Notwithstanding the foregoing, in the event that the delivery term designated by Company in the order confirmation is EXW (Incoterms 2020), the title to and risk of loss for the Products shall pass to Customer upon delivery thereof to any common carrier at the site of Company's parent company Stöbich Brandschutz GmbH in Goslar, Germany. Company's estimated lead time for delivery of Products is four (4) to five (5) weeks for sea freight and seven (7) to ten (10) weeks for air freight.

4.3. Customer shall provide the exact delivery address and a contact person at site prior to Company's shipment of the Products or performance of any Services. The Products shall be packaged as stated in Company's order confirmation. Customer shall be exclusively responsible for, and shall provide Company with, any information necessary to comply with special labeling requirements applicable at Customer's place of business, or at the point of destination if different from Customer's place of business. Any shipping costs listed in Company's quotation or order confirmation are only an estimate and subject to change by Company.

4.4. Company shall use its reasonable efforts to deliver the Products to Customer and perform the Services by the date designated in Company's order confirmation; however, if the Products are not delivered or the Services are not performed by such date, Customer shall be entitled, after setting a reasonable grace period, to withdraw from the Agreement with regard to the part not yet fulfilled. Company will not be responsible for any damage to Products caused by a carrier and Customer's sole recourse for such damage will be against the carrier.

4.5. Unless otherwise agreed to in a separate writing by Company and Customer, all tools, models, plans, blueprints, designs, drawings, specifications, processes, intellectual property, know-how, and other devices and/or documents used and/or developed by Company in order to fulfill any order, including without limitation any order with respect to Products manufactured to Customer's specification, are the property of the Company, even if the cost of development and/or manufacturing of any of the foregoing was wholly or partially borne by the Customer. Customer acknowledges and agrees that Customer does not have any license, proprietary, intellectual property, or similar rights in the current or any newly developed Products or Services or any patents, trade secrets, intellectual property or similar rights relating to the current or any newly developed Products or Services. No license or intellectual property or similar right applicable to or in Products or Services is granted or implied by these Terms or any Sales Document, and Customer shall not name or designate any Product information or Products or Services in any patent application. Customer may not alter or remove, and will abide by, any patent, trademark, copyright, trade secrets, proprietary or other notices, serial numbers, labels, tags or other identifying marks, symbols or legends contained on or in Products (including, but not limited to, containers or packages) or Services. Without limiting the foregoing, Customer may not modify, reverse engineer or otherwise change any Product.

4.6. Partial deliveries and partial services are permissible, provided that the Products to be delivered are in stock, and shall be regarded as independent deliveries with regard to any complaints and payment.

5. **Inspection:**

Customer shall inspect all Products and Services immediately upon their delivery and prior to use or resale. Immediately and no later than five (5) days after delivery of a Product or completion of a Service, Customer must give written notice to Company of any claim by Customer based upon any shortage, defect or discrepancy of the Products sold or Services provided, and the notice must indicate the basis of the claim in detail. If Customer timely notifies Company of any such non-conforming Products or Services, Company shall, in its sole discretion, repair or replace the non-conforming Products or Services with conforming Products or Services. Customer's failure to comply with this Section 5 shall constitute irrevocable acceptance by Customer of the Products delivered or Services performed and shall bind Customer to pay to Company the full price of such Products or Services. No non-conforming Products shall be returned without Company's prior written consent and then only in accordance with Company's then current return policies. *Customer acknowledges and agrees that the remedies set forth in this Section 5 are Customer's sole and exclusive remedies for the delivery of non-conforming Products or Services.*

6. Security Interest:

6.1. As security for the timely and full payment and performance of all Customer's obligations to Company arising out of an Agreement, Customer hereby grants to the Company a lien on and a first priority purchase money security interest in the Products sold or delivered to Customer and to the proceeds of those Products (collectively, "Collateral"). Such security interest shall remain in force until payment in full of the entire purchase price for the Products and Services has been received by Company.

6.2. Customer hereby expressly authorizes Company to file all financing statements, continuation statements and other documents necessary or desirable to establish, perfect, maintain, preserve and enforce Company's security interest in the Collateral. Customer shall cooperate in the respective filings and registrations which are required according to applicable laws or are desirable for an effective protection of Company's claim for payment of the Products and Services, including, without limitation, any required documentation duly filed under the UCC in all jurisdictions as may be necessary to perfect Company's security interest and lien in the Collateral.

7. Limited Warranty:

7.1. Subject to the express provisions in these Terms and in the Sales Documents, Company warrants that: (a) for a period of 12 months from the date of delivery of a Product such Product will be free from defects in materials and workmanship; and (b) when Services are performed for Customer, Services will have been performed in a workmanlike manner. The warranties provided in Sections 7(a) and (b) are hereinafter referred to collectively as "Limited Warranty." The Limited Warranty shall apply for a period of 12 months after the delivery date of a Product and for ninety (90) days after completion of Services (each, a "Warranty Period"). Customer must make any Warranty Claim (defined in Section 8.2 below) in accordance with Section 8.2 below. The Limited Warranty is limited to Customer only and is non-transferable. Customer is solely responsible for proper selection of Products and their use, installation, and application, and Customer has tested the Products or otherwise determined their suitability for Customer's intended use.

7.2. Any depictions, projections, diagrams, illustrations and other descriptions or other information from Company or its affiliates, applicable to Products, Services or an Agreement, whether included in catalogs or otherwise, are descriptions or approximations only, and do not constitute any binding specifications, representations, warranties, or guarantees, implicitly or explicitly, on Company.

7.3. EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY PROVIDED IN SECTIONS 7.1(a) and 7.1(b) ABOVE, COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, STATUTORY OR OTHERWISE, REGARDING OR RELATING TO PRODUCTS OR SERVICES AND COMPANY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS AND IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO PRODUCTS AND SERVICES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

7.4. No employee, dealer, distributor, sales representative, or any other person or entity is authorized to offer any different or additional warranties or remedies, or to change the Limited Warranty, without the signature of an authorized officer of the Company.

7.5. The Limited Warranty does not cover: (a) damage to Products during or after delivery; (b) normal wear and tear; (c) items that are expendable; (d) user error; (e) installation, commissioning, use or maintenance under circumstances exceeding Company's specifications or limitations or contrary to any instructions or information from Company (including, but not limited to, those contained in Company's packing list or installation, operating or maintenance manuals or instructions as supplemented from time to time by Company); (f) unauthorized or improper installation, repair, modification or alteration; (g) use of non-original components; (h) Products sold based on Customer's instructions, design, plans or other non-Company specifications; (i) failure to provide reasonable and necessary maintenance; (j) improper storage; (k) corrosion, erosion, abrasion or similar causes; and (l) accidents.

8. Warranty Claims:

8.1. Customer must inspect and test each Product for any alleged non-conformities prior to each Product's use or

resale. The Limited Warranty is conditioned upon Customer following the claims process then in effect, which Company may change from time to time.

8.2. Customer must give Company written notice of any Products or Services which Customer alleges do not conform to the Limited Warranty, specifying the alleged non-conformities (each notice, a "Warranty Claim"). Any Warranty Claim must be made within fourteen (14) days after Customer is aware of the alleged non-conformity and, in any event, within the Warranty Period. Warranty Claims after such period are not valid claims. In any event, the Limited Warranty expires when, and no claims may be made after, the Warranty Period ends. In addition to the Warranty Claims process described in this Section 8, Customer agrees to follow any additional then current Company Warranty Claims process, which may include obtaining from Company a return authorization number in order to return any Product. If Company requests it in writing, Customer shall return, at its expense, any alleged non-conforming Product to a location designated by Company for Company to verify the claimed defect. Company shall have a reasonable opportunity to evaluate the Warranty Claim, including, but not limited to, inspection of the Product or part thereof, to evaluate the alleged non-conformity and inspection of Services, including, but not limited to, a site visit, to evaluate the alleged non-conforming Services.

8.3. For any Products which Company determines do not conform to the Limited Warranty, Company's sole liability and obligation, and Customer's sole and exclusive remedy, shall be, at Company's choice, to repair or replace such Products. For any Services which Company determines do not conform to the Limited Warranty, Company's sole liability and obligation, and Customer's sole and exclusive remedy, shall be, at Company's choice, to correct or repeat such Services.

9. Limitation of Liability:

9.1. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, REVENUE, GOODWILL OR USE (OR INABILITY TO USE), INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR IMPOSED BY STATUTE, OR OTHERWISE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

9.2. COMPANY'S MAXIMUM AGGREGATE LIABILITY UNDER, ARISING OUT OF OR RELATED TO AN AGREEMENT, PRODUCTS, SERVICES OR THE USE (OR INABILITY TO USE) ANY PRODUCTS OR SERVICES, WHETHER IN WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, EQUITY, OR ANY OTHER LEGAL CONCEPT, SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT CUSTOMER PAID TO COMPANY UNDER THE ORDER CONFIRMATION COVERING THE PRODUCTS OR SERVICES AT ISSUE. IT IS AGREED AND ACKNOWLEDGED THAT THE PROVISIONS OF THIS AGREEMENT ALLOCATE THE RISKS BETWEEN COMPANY AND CUSTOMER, THAT COMPANY'S PRICING REFLECTS THIS ALLOCATION OF RISK, AND BUT FOR THIS ALLOCATION AND LIMITATION OF LIABILITY, COMPANY WOULD NOT HAVE ENTERED INTO THIS AGREEMENT.

9.3. IN JURISDICTIONS THAT LIMIT THE SCOPE OF OR PRECLUDE LIMITATIONS OR EXCLUSION OF REMEDIES OR DAMAGES, OR OF LIABILITY, SUCH AS LIABILITY FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR DO NOT ALLOW IMPLIED WARRANTIES TO BE EXCLUDED, THE LIMITATION OR EXCLUSION OF WARRANTIES, REMEDIES, DAMAGES OR LIABILITY SET FORTH ABOVE ARE INTENDED TO APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

10. Indemnity:

Customer agrees to indemnify, defend and hold harmless Company and its affiliates, and their respective officers, directors, employees and agents, from any and all claims, actions, suits, damages, liabilities, costs, obligations, and expenses (including attorneys' fees and expenses) arising out of or relating to: (a) selection, application, use, installation, or incorporation of Products; (b) any processing or modification of Products in any manner by Customer, its employees, or agents; (c) violation, misappropriation, or infringement of any patent, trademark, copyright or other

intellectual property rights of any person or entity arising out of or related to compliance with Customer's design, specifications or instructions or Customer's use of a Product with other goods; (d) use of a Product or Services exceeding Company's specifications, limitations or recommendations; (e) any breach of warranty or misrepresentation (express or implied) made by Customer, its employees or agents; and (f) any violation of law or regulation, intentional or negligent act, or misrepresentation by Customer, its employees or agents.

11. Insurance:

Customer will maintain commercial general liability, personal injury and property damage insurance policies, including wrongful death coverage, in reasonable amounts consistent with industry standards with a nationally recognized insurance company.

12. Confidentiality:

Customer shall keep strictly confidential in perpetuity and shall not use, disclose, publish, disseminate or communicate in any manner to third parties, except as expressly permitted by these Terms, any non-public, confidential or proprietary information of Company or its affiliates including but not limited to trade secrets, know-how, designs, plans, specifications, illustrations, layouts, samples, patterns, drawings, dimensions, documents, data, business operations and internal affairs, customer lists, pricing, discounts, rebates, materials, components, computer programs, data bases, and information, documents and records describing or relating to Products and/or Services, disclosed by Company or its affiliates to Customer, whether or not marked "confidential", and whether or not in oral, written, electronic or other form, in connection with the sale of Products or Services (collectively, "Confidential Information"). Additionally, Confidential Information shall include all notes, databases, summaries, analyses and other work product of Customer containing or based on Confidential Information, regardless of who prepares them. Notwithstanding the foregoing, Confidential Information shall not include any information, documents or records: (a) that Customer can demonstrate to have been in the public domain prior to any disclosure of such information, document or record by the Company or its affiliates, whether directly or indirectly; or (b) that become part of the public domain by publication or otherwise through no fault or negligence on the part of Customer. Customer shall only use the Confidential Information for its own account to perform Customer's obligations under an Agreement and shall not otherwise use, modify or refine the Confidential Information in any manner. All Confidential Information remains the exclusive property of the Company. Customer shall not obtain a license of, title to or any other rights in any Confidential Information or trademarks, service marks, trade names, trade secrets, know how, patents, copyrights or other property or rights of Company (including any improvements, refinements and modifications) by virtue of this Agreement or any disclosure of Confidential Information. Customer shall not disclose to any third party or copy such Confidential Information, unless approved in advance in writing by the Company. Customer shall instruct its employees and its independent subcontractors to strictly adhere to the terms and conditions of this Section 12. Customer and each third party to whom Confidential Information is disclosed shall be fully responsible for any breach or violation of this Section 12 by any third party to whom Customer discloses any Confidential Information. If Customer is required by any applicable law or court order to disclose any Confidential Information, Customer shall give Company prompt and prior written notice of the proposed disclosure and shall take all reasonable actions to prevent the proposed disclosure. Additionally, Company shall be entitled to take those actions it deems necessary or appropriate, including seeking to prevent the disclosure of its Confidential Information. Customer shall provide reasonable assistance to Company in connection with those actions. Customer shall return to Company all Confidential Information and all electronic or other copies of any Confidential Information promptly after receiving Company's written request, and Customer will promptly certify to Company in writing that it has done so.

13. Limitation on Actions:

Unless prohibited by applicable law, Customer must commence any action or proceeding that arises out of or relates to an Agreement, Company's breach of an Agreement, Products or Services within the earlier of: (a) one (1) year after the claim or cause of action has accrued; or (b) the period prescribed by applicable statute of limitation or repose. Any action or proceeding Customer does not commence within such period will be forever barred. An Agreement contains Customer's sole and exclusive remedies relating to an Agreement, Products or Services regardless of the theory of recovery.

14. Force Majeure:

14.1. Company shall not be liable to Customer or any other person, and Company's performance (and delivery dates and delivery periods) shall be deemed extended, for any failure or delay in the performance of any obligation under an Agreement due to events beyond its reasonable control, including, but not limited to, fire, storm, flood, earthquake, epidemic, explosion, accident, acts of the public enemy, declared or undeclared wars, riots and public disorder, sabotage, strikes, lockouts, labor disputes, labor shortages, work slowdown, stoppages or delays, shortages or failures or delays in obtaining (or inability to obtain) energy, materials, supplies or equipment, Products or Services through usual sources at normal prices, failure of Company's suppliers to furnish parts or other goods, transportation embargoes or delays, acts of God, breakdown in machinery or equipment, and, except as otherwise set forth in an Agreement, acts or omissions by any governmental authority, and changes in the law, regulations or priorities of the federal, state or local governments.

14.2. When the event operating to excuse performance by Company shall cease, the Agreement shall continue in full force.

15. Miscellaneous Terms:

15.1. An Agreement and all matters, disputes, claims or controversies arising out of or relating to an Agreement or Products or Services, including tort claims, shall be governed by and construed in accordance with the laws of the State of South Carolina, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than South Carolina. The application of the Convention on Contracts for the International Sale of Goods (CISG) is hereby excluded.

15.2. Any matter, dispute, controversy or claim arising out of or relating to an Agreement, or the negotiation or breach thereof, or Products or Services shall be exclusively settled by arbitration in accordance with the International Arbitration Rules of the American Arbitration Association ("AAA"). The award shall be final and binding. Judgment upon the award rendered by the arbitrator or the arbitrators may be entered in any court having jurisdiction thereof. The arbitration shall be held in Charleston, South Carolina, shall be conducted in the English language, and shall be conducted (i) if the amount in dispute is less than two hundred fifty thousand dollars (\$250,000), before a single arbitrator mutually agreeable to Company and Customer, or if no agreement can be reached, then selected by the AAA, or (ii) if the amount in dispute is two hundred fifty thousand dollars (\$250,000) or more, before three (3) arbitrators. The arbitrator(s) shall make detailed findings of fact and law in writing in support of his, her or their decision, and shall award reimbursement of attorney's fees and other costs of arbitration to the prevailing party, in such manner as the arbitrator shall deem appropriate.

15.3. If any provision contained in these Terms or any Sales Document is found to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable provision shall be severed from the remainder of the Terms or any Sales Document, as the case may be, and the remainder of the Terms or Sales Document shall be enforced in accordance with the remaining provisions. Notwithstanding the foregoing, however, if the severed provision concerns all or a portion of the essential consideration to be delivered under these Terms or any Sales Document by one party to the other, the remaining provisions of these Terms or any Sales Document shall also be modified to the extent necessary to equitably adjust the parties' respective rights and obligations hereunder.

15.4. In the event of a violation or threatened violation of Sections 4.5 or 12 above, Company shall have the right, in addition to such other remedies as may be available pursuant to law or this Agreement, to temporary or permanent injunctive relief enjoining such act or threatened act. The parties acknowledge and agree that legal remedies for such violations or threatened violations are inadequate and that Company would suffer irreparable harm.

15.5. The parties hereto are independent contractors and nothing in an Agreement will be construed as creating a joint venture, partnership, association, employment or agency relationship between the parties. Customer shall have no power or authority to enter into any commitment on behalf of or otherwise bind Company on any matter including but not limited to making any representation or warranty on behalf of Company. No employee of either party shall be deemed to be an employee of the other party.

15.6. These Terms and all Sales Documents shall apply to all sales of the Products and the Services from Company to Customer. No delay or failure by Company to exercise or enforce any of its rights or remedies under an Agreement

will be construed as a waiver of such rights or remedies. The express waiver of any right or remedy in a particular instance will not constitute a waiver of that right or remedy in any other instance.

15.7. An Agreement, including any Company order confirmation attached hereto, contain the entire agreement of the parties with respect to the subject matter of the Agreement, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications between them, whether oral or written, of any nature whatsoever with respect to the subject matter of the Agreement. An Agreement is binding upon the parties thereto, their successors, heirs and permitted assigns. Customer may not assign all or any portion of its rights or obligations under an Agreement without Company's prior written consent, and any attempted assignment without that consent shall be void.

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