

TERMS AND CONDITIONS OF SALE

A. STUCKI COMPANY
360 Wright Brothers Drive
Moon Township, PA 15108

1. **ACCEPTANCE.** These Terms and Conditions of Sale (these “Terms”) and the purchase order, proposal or other purchase document to which these Terms are attached (the “Purchase Order,” and together with these Terms, this “Agreement”) constitute the final, complete and entire understanding and agreement between A. Stucki Company, a Delaware corporation, or (if applicable) the subsidiary thereof set forth in the Purchase Order (such party, “Stucki”), and the buyer named in the Purchase Order (“Buyer”) (each of Stucki and Buyer, a “Party,” and together, the “Parties”), and supersede all prior written or oral representations or agreements between the Parties, with respect to the subject matter of this Agreement and the Stucki products and services specified in the Purchase Order (as applicable, the “Products” and the “Services”). Any offer by Stucki to sell, or any acceptance by Stucki of Buyer's purchase order or other form, is expressly conditioned on Buyer's acceptance of these Terms. If the terms and conditions of Buyer's purchase order differ in any way from these Terms, Stucki hereby rejects Buyer's terms and conditions and insists upon these Terms as exclusively governing the Agreement. No modification or waiver of any of these Terms, in whole or in part, shall be binding, except in an express written agreement to so modify them, signed by Stucki. In any event, Buyer's authorization to ship the Products or its acceptance of the Products shall constitute Buyer's assent to these Terms.

2. **WARRANTY.** Stucki warrants that the Products (whether originally manufactured or refurbished) will be free from material defects in material and workmanship under normal use and maintenance for a period of one (1) year following the date of shipment and that the Products will conform in all material respects to any applicable drawings and specifications issued or approved in writing by Stucki. The foregoing warranty applies only to Products which have been installed, operated and maintained in accordance with Stucki's instructions (if/as applicable), and it does not cover damage due to faulty installation, operation or maintenance, accident, tampering, modification, abuse, misuse, neglect, operating conditions outside of specified parameters, or other conditions beyond Stucki's control. As to Services (if any), Stucki warrants that the Services will be performed in accordance with the standard of care customarily exercised by professionals providing services of a similar nature, but in no case less than a good and workmanlike manner, for a period of one (1) year following the performance of such Services; provided, however, that the foregoing warranty shall apply solely to Services that are expressly specified in the Purchase Order and that are to be performed by Stucki for compensation as specified in the Purchase Order. **STUCKI HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES WITH RESPECT TO THE PRODUCTS AND THE SERVICES, EXPRESS OR IMPLIED, WHETHER ARISING BY LAW OR USAGE OF TRADE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

3. **REMEDY.** Buyer's **SOLE AND EXCLUSIVE** remedy for failure of Products or Services (as applicable) to conform to the foregoing warranties shall be repair or replacement (as Stucki may decide) of the non-conforming Product(s) or re-performance of the non-conforming Service(s). Repair or replacement will be made at no charge to Buyer, provided that: (a) Buyer notifies Stucki in writing of any claim and provides Stucki with evidence that the claim is covered by the warranty; (b) Buyer either (at Stucki's option) receives authorization from Stucki to return any allegedly non-

conforming Product or affords Stucki reasonable opportunity to inspect it on-site; (c) any non-conforming Product returned to Stucki is returned F.O.B. Stucki's specified factory; and (d) it is determined by Stucki that Product non-conformity is not attributable to faulty installation, operation or maintenance, accident, tampering, modification, abuse, misuse, neglect, operating conditions outside of specified parameters, or other conditions beyond Stucki's control. Unauthorized returns will be returned to Buyer at Buyer's expense without examination by Stucki. If the foregoing remedy of repair or replacement of non-conforming Product, or re-performance of non-conforming Service, is adjudged to have failed of its essential purpose, Stucki's total liability shall be to refund the purchase price of the non-conforming Product (excluding taxes), freight costs for return and replacement product, and labor to remove the non-conforming Product and install the replacement product, and as to non-conforming Service, refund of the purchase price thereof.

4. **LIMITATION OF LIABILITY.** Stucki shall not be liable for special, indirect, consequential or incidental damages, whether arising under contract, warranty, tort, negligence, strict liability or any other theory of liability, irrespective of the circumstances. Such excluded damages include, but are not limited to, loss of profits, loss of use of Products or equipment in which they are installed, and claims of third parties, and the foregoing exclusion shall apply regardless of whether Stucki is advised of the possibility of such damages. The total maximum liability of Stucki for any claim arising under or in connection with this Agreement, irrespective of the circumstances thereof, shall be limited to the purchase price of the Product or Service giving rise to the liability.

5. **BUYER'S OBLIGATIONS.** Buyer shall install, operate and maintain the Products in accordance with all applicable instructions and other documentation furnished by Stucki.

6. **SHIPPING.** Unless otherwise expressly provided in the Purchase Order, all prices are F.O.B. (Incoterms® 2020) the Stucki location specified in the Purchase Order, to the location(s) specified in the Purchase Order, freight, handling and insurance prepaid and added to invoice for Buyer's account, and with Buyer responsible for any import or export duties and charges.

7. **TITLE AND RISK OF LOSS.** Notwithstanding the provisions of **Section 6** hereof, title to all Products shall remain fully in Stucki until Buyer has paid the full purchase price thereof. All risk of loss or damage to Products shall pass to Buyer upon delivery to the carrier, regardless of which Party pays shipping costs or selects the carrier.

8. **TAXES AND DUTIES.** Buyer shall pay any sales, use, value added, excise, gross receipts, business, occupation or other present or future taxes, duties or assessments of any governmental authority on the sale, purchase, delivery, transport, use or storage of, or otherwise in connection with, Products or Services under this Agreement (excluding Stucki's income taxes), as well as any fine, penalty or interest thereon, incurred as a result of Buyer's acts or omissions with respect thereto. If and to the extent that Stucki is responsible for the remission of any such taxes or duties to taxing authorities under applicable law, Stucki shall have the right to collect such amounts from Buyer. Upon demand by Stucki, Buyer shall supply to Stucki copies of evidence of payment of or exemption from any such taxes, duties or assessments which Buyer is obligated to pay.

9. **PAYMENT.** Payment for Products and Services shall become due in full thirty (30) days after invoice. Stucki shall have the right to invoice Buyer any time after the date of shipment of the applicable Products or performance of the applicable Services. Without limitation of Stucki's other rights and remedies, Buyer agrees to pay late charges of one and one-half percent (1½%)

per month on any overdue balances and to reimburse Stucki for all costs and expenses, including reasonable attorney fees, incurred in collecting any overdue amounts.

10. **DELIVERY.** Stucki will establish estimated shipping schedules as close as practicable to Buyer's requested delivery dates. However, Stucki's shipping schedules and delivery dates are only estimates, and while Stucki will make good faith efforts to conform to its estimated shipping schedules and delivery dates, Stucki shall not be responsible for deviations from them (or Buyer's requested delivery dates) or for any losses or damages to Buyer (or any third person) occasioned by deviations from them.

11. **DAMAGE AND SHORTAGE CLAIMS.** Any claims for loss, breakage or damage (obvious or concealed) of Products in delivery are Buyer's responsibility and should be made directly to the carrier. Stucki will render Buyer reasonable assistance in securing satisfactory adjustment of such claims. Any notices of shortages or other errors in shipments must be made in writing to Stucki within fifteen (15) days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance of the shipment volume and a waiver of such claims by Buyer.

12. **CANCELLATION OF PURCHASE ORDER.** Stucki shall have the right to manufacture Products sold under this Agreement as far in advance of its estimated shipping schedule as it deems appropriate. Except for custom Products (which shall not be cancellable without Stucki's consent), Purchase Orders (or releases of tranches under Purchase Orders) may be cancelled by Buyer prior to shipment, subject to the further terms hereof. If Buyer cancels the Purchase Order (or a release under the Purchase Order) before Stucki orders any materials or incurs any actual costs (including tooling costs) required to fill it, no cancellation charge will apply. If Buyer cancels the Purchase Order (or a release thereunder) after Stucki incurs costs or expenses to meet it, Stucki shall be entitled to receive from Buyer, as cancellation charges, Stucki's total costs and expenses incurred in processing the cancelled Purchase Order (or release thereunder) from the order stage to the stage that the applicable Products are in at the time that Stucki receives Buyer's cancellation notice, plus an administrative fee of twenty percent (20%). Without limitation of the foregoing, in the event that the cancelled Purchase Order (or release) is for custom Products that are not readily capable of sale to other customers, such Purchase Order (or release) shall be cancellable only with Stucki's consent in its sole discretion.

13. **CHANGES TO PURCHASE ORDER.** Buyer may request changes in quantities, time and place of delivery (of Products) or performance (of Services), and method of transportation under the Purchase Order (or any release of tranches thereunder), and Stucki shall make good faith efforts to accommodate any such change request, subject to the further terms hereof. An equitable adjustment to purchase price or delivery date will be made if such changes cause an increase or decrease in cost or time required for performance; provided, however, that decreases in Product volume shall be treated in the same manner as cancellation of Purchase Order (but only as to the decrease in volume, i.e., a partial cancellation of the Purchase Order) pursuant to **Section 12** hereof.

14. **PATENTS.** Subject to the further terms hereof, Stucki shall indemnify Buyer for all damages and reasonable costs and expenses incurred by Buyer in any suit or demand against Buyer alleging infringement of any United States patent with respect to Products sold hereunder, provided that Stucki is notified promptly in writing of such suit or demand and given adequate authority, information and assistance for the defense thereof. Stucki, at its own option and expense, shall have the right to settle such suit or demand by, at Stucki's sole and absolute discretion: (a) procuring for Buyer the right to continue using the Product; (b) replacing the Product

with a non-infringing reasonably equivalent product; (c) modifying the Product so that it becomes non-infringing; or (d) removing the alleged infringing Product and refunding the purchase price thereof. The foregoing indemnification obligation shall not apply to Products that are made to Buyer's design or that Buyer has modified in a manner that causes them to infringe, and in such cases, Buyer agrees to indemnify Stucki against any claims or liability for patent infringement or misappropriation of trade secrets on account of such design or modification. Stucki's sole responsibility and Buyer's exclusive remedy for any claim of infringement shall be as set forth in this **Section 14**.

15. **MODIFICATION, RESCISSION AND WAIVER.** This Agreement may not be modified or rescinded, nor any of its provisions waived, unless such modification, rescission or waiver is in writing and signed by all of the applicable Parties.

16. **NO SET-OFF.** Buyer shall not deduct or set-off from any amounts due to Stucki under this Agreement the cost of unpacking, examining, repacking and reshipping of any rejected Products, or any amounts due or to become due from Stucki to Buyer under this Agreement or any other order.

17. **DISPUTE RESOLUTION.** Any dispute that might arise between Stucki and Buyer relating to or arising from this Agreement shall be settled by binding arbitration in accordance with the then-prevailing Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except where those rules conflict with this provision, in which case this provision controls. Arbitration shall be conducted before a single arbitrator selected from the AAA's National Roster of Arbitrators. The arbitration shall be held, and Stucki and Buyer irrevocably consent to arbitrate, in Pittsburgh, Pennsylvania, unless the Parties mutually agree upon an alternative location. The arbitration shall be conducted in English. In rendering the award, the arbitrator must apply the substantive law specified herein, except that the interpretation and enforcement of this arbitration provision shall be governed by the Federal Arbitration Act. Under no circumstances shall the arbitrator award damages in excess of or inconsistent with the limitations contained in these Terms relating to limitation of a Party's liability. Any court with jurisdiction shall enforce this provision and enter judgment on any award. Stucki and Buyer will agree upon, within forty-five (45) days after arbitration is initiated, or if they fail to agree, the AAA will design, procedures that they will follow to ensure that the arbitration will be concluded and the award rendered within no more than eight (8) months after selection of the arbitrator. Stucki and Buyer each have the right, before or during arbitration, to seek and obtain from the appropriate court provisional remedies such as attachment, an injunction, replevin, etc., to avoid irreparable harm, maintain the status quo or preserve the subject matter of the arbitration.

18. **MISCELLANEOUS.**

(a) Stucki reserves the right to furnish substitutes for Product materials which cannot be reasonably obtained because of any restrictions, voluntary or compulsorily, established by or in connection with any governmental authority or program. Stucki may, during any periods of shortage due to causes beyond the control of Stucki or its suppliers, prorate its supply of Products among all of its customers (including Buyer) in such manner as may be deemed equitable in the sole judgment of Stucki. Stucki shall not incur any liability to Buyer because of any proration hereunder.

(b) All Purchase Orders shall be subject to acceptance by an authorized employee of Stucki.

(c) Buyer may not assign, transfer, convey or delegate its duties or obligations under this Agreement without the prior written consent of Stucki, and any such purported assignment, transfer, conveyance or delegation without Stucki's consent shall be null and void.

(d) This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania (U.S.A.) without regard to its conflict of laws provisions. The United Nations Convention on the International Sale of Goods expressly shall not apply in any manner to this Agreement or the performance of the Parties hereunder.

(e) Failure of either Party to insist in any one or more instances upon the performance of any of these Terms, or the failure of such Party to exercise any of its rights hereunder, shall not be construed as a waiver or relinquishment of any such term, condition, or right hereunder and shall not affect such Party's right to insist upon strict performance and compliance with regard to any unexecuted portions of this Agreement or future performance hereunder.

The obligations of Stucki under this Agreement shall be suspended during the time and to the extent that Stucki is prevented from or delayed in complying with such obligations as a result of matters beyond its control, including, without limitation, acts of God, acts of governmental authorities, war, terrorism, fire, flood, accident, labor unrest, epidemic (including Covid-19), severe weather, breakage of equipment, or shortages of labor, supplies, transportation or facilities (collectively, "Force Majeure"). If Stucki's ability to perform is interrupted by Force Majeure, it must: (i) as soon as reasonably possible after being affected, notify Buyer of the particulars of the Force Majeure event and the manner in which Stucki's performance will be prevented or delayed; and (ii) take reasonable steps to remove, overcome or minimize the effects of the Force Majeure event, except that Stucki shall not be obligated to settle a strike, lockout

