

## Terms and Conditions

- 1) DEFINITIONS:** The following definitions will apply:
- a) WaldrichSiegen: Waldrich Siegen GmbH & Co. KG, Daimlerstrasse 24, D-57299 Burbach, Germany
  - b) Customer: Name and address as listed on quotation.
  - c) Equipment: The equipment located on the Customer's premises that is subject to the Services.
  - d) Products: The products that are manufactured, sold or otherwise provided by WaldrichSiegen.
  - e) Services: The machine tool services to be provided by WaldrichSiegen as more specifically set forth in the Statement of Work attached hereto.
  - f) Statement of Work: The formal document that captures and defines the work, products and/or services to be provided by WaldrichSiegen such as technical specification, technical proposal, technical quotation etc..
- 2) GENERAL:** WaldrichSiegen shall provide the Products and/or Services for the Customer and the Customer shall accept such Products and/or Services, each in accordance with these Terms and Conditions and Statement of Work. No binding contract of purchase/sale shall be affected until the Customer's order is accepted, in whole or in part, by WaldrichSiegen. These Terms and Conditions supersede all other terms, conditions, acknowledgments, or other provisions, whether express or implied, oral or in writing (including all previously distributed WaldrichSiegen price books). Any provisions contained in any acknowledgement or other documents issued by the Customer are expressly rejected and shall be of no force or effect. In the event the Statement of Work and/or these Terms and Conditions conflict with the terms in any acknowledgement or other document issued by the Customer, the Statement of Work and these Terms and Conditions shall control.
- 3) PRICE AND PAYMENT:** The price for Products shall be as stated in the WaldrichSiegen USA quotation and acknowledgement and shall be subject to these Terms and Conditions. The price for the Services shall be as stated in the Statement of Work, the Service Rate Schedule and acknowledgement, subject to these Terms and Conditions. Unless otherwise stated in the Statement of Work:
- a) Prices **exclude** all duties, taxes or other governmental charges, which now are, or hereafter may be, imposed upon the sale or use of the Products. All such duties, taxes or other charges required to be paid by WaldrichSiegen shall be for Customer's account. Any exemption claimed from the application of such duties, taxes or other charges should be plainly designated on the face of orders placed with WaldrichSiegen and accompanied by exemption certificates where required.
  - b) Orders will be entered with prices in effect at the time of receipt of the purchase order and are subject to the applicable scrap metal surcharge, if any, in effect at the time of receipt of such order. All prices are subject to change without notice, and quoted prices are firm for thirty (30) days unless Customer's specifications are changed after prices are quoted by WaldrichSiegen, in which event Customer agrees that WaldrichSiegen may adjust the price accordingly. Customer further acknowledges that all prices for Products are subject to adjustment on account of changes in specifications, quantities, shipment arrangements and other terms and conditions which are not part of WaldrichSiegen's original pricing as set forth in the Statement of Work.
  - c) Unless otherwise agreed to in writing by an authorized WaldrichSiegen representative, all prices quoted are net, EXW WaldrichSiegen Plant, Burbach, Germany per INCOTERMS 2010. All prices and terms offered by WaldrichSiegen are and shall remain confidential. All applicable orders are subject to surcharges in affect at time of shipment;
  - d) Payment terms shall be net thirty (30) days;
  - e) Retainage may only be applied on the final invoice, not on prior progress payment invoices;
  - f) Customer shall have no right of setoff or to retain payment on account of any claim that it may have against WaldrichSiegen or its affiliates. For each thirty (30) days, or part thereof, that an invoice remains overdue, Customer agrees to pay interest charged on the unpaid balance at a rate of one and one-half percent (1- ½%) per month (but not in excess of the maximum rate allowed by law);
  - g) If Customer fails to make any payment when due, in addition to all other sums payable hereunder, Customer agrees to pay to WaldrichSiegen the reasonable costs and expenses incurred by WaldrichSiegen in connection with all actions taken to enforce collection or preserve and protect WaldrichSiegen's rights hereunder, whether by legal proceedings or otherwise, including without limitation reasonable attorneys' fees and court costs and other expenses;
  - h) Partial shipments may be made at WaldrichSiegen's option. If all items are not shipped on the same date, pro rata invoices shall be rendered. If engineering design is part of the order, monthly progress payments shall be required.
  - i) If Customer is responsible for any delay in shipment exceeding one business day Customer agrees that: (1) the date of completion of goods may be treated by WaldrichSiegen as the first day of the payment term calculation and (2) completed goods shall be held at Customer's sole risk and expense and WaldrichSiegen shall have the right to invoice Customer for reasonable storage and insurance expenses.
- 4) SALE AND DELIVERY:** If freight is to be prepaid by WaldrichSiegen, actual freight charges will be added to amount due. WaldrichSiegen reserves the right to stop delivery of any Product in transit and to withhold shipments in whole or in part if Customer fails to make any payment to WaldrichSiegen when due or otherwise fails to perform its obligations hereunder or under any other outstanding payment obligations of the Customer to WaldrichSiegen, whether related to the Statement of Work or otherwise. SHIPMENT, DELIVERY AND INSTALLATION DATES ARE ESTIMATED DATES ONLY and, unless otherwise specified, are calculated from the later of the date of receipt WaldrichSiegen from Customer of (a) complete technical data and approved drawings or (b) any down payment required by WaldrichSiegen. WaldrichSiegen may deliver any or all of the order in advance of the estimated delivery date. THE DATE OF DELIVERY IS THE DATE OF DELIVERY BY WALDRICHSIEGEN TO THE INITIAL CARRIER. DELIVERY TO THE INITIAL CARRIER SHALL CONSTITUTE DELIVERY TO CUSTOMER, AND AS OF SUCH DELIVERY, RISK OF LOSS IS TRANSFERRED TO CUSTOMER. CLAIMS FOR ERRORS OR SHORTAGES IN SHIPMENTS MUST BE SUBMITTED TO WALDRICHSIEGEN, WITH ADEQUATE DOCUMENTATION AND SUPPORT, WITHIN THIRTY (30) DAYS AFTER RECEIPT. ALL RISK OF LOSS OR DAMAGE IN TRANSIT SHALL BE ON CUSTOMER AND ALL CLAIMS FOR LOSS, DAMAGE IN TRANSIT, OR NON-DELIVERY SHALL BE MADE BY CUSTOMER AGAINST THE CARRIER. In estimating dates of delivery and installation, WaldrichSiegen has not made any allowance and shall not be

liable directly or indirectly, for delays of carriers or delays from labor difficulties, shortages, strikes or stoppages of any sort, fires, accidents, failure or delay in obtaining materials or manufacturing facilities, computer failures, system downtimes, power outages, viruses, "hacking" or other intrusion by unauthorized third parties, acts of government, bad weather, or any causes beyond WaldrichSiegen's reasonable control or causes designated Acts of God or force majeure by any court of law, and, when such delays arise, the estimated delivery date shall be extended accordingly. WALDRICH SIEGEN SHALL NOT BE LIABLE FOR ANY DAMAGES OR PENALTIES WHATSOEVER, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, RESULTING FROM ITS FAILURE TO PERFORM OR DELAY IN PERFORMING.

- 5) **TITLE:** Notwithstanding the trade terms indicated above and subject to the WaldrichSiegen's right to stop delivery of any Product in transit, title to the goods will pass to Customer only after Customer has paid WaldrichSiegen full price of the Products, and provided, however, any software incorporated within or forming part of the Equipment shall at all times remain with WaldrichSiegen or the licensor(s) thereof, as the case may be.
- 6) **ON-SITE SERVICES:** Unless otherwise specified or included in the Statement of Work, all on-site Services are provided to Customer on a time and materials basis (plus travel and living expenses), at WaldrichSiegen's then prevailing hourly rates as set forth on the Statement of Work.
- 7) **PERMITS, LICENSES AND FEES:** Customer shall be responsible at its expense for all environmental permits, applications, regulatory approvals, safety compliance and other permits or licenses that may be required for the Services and the installation and/or operation of the Products and the Equipment.
- 8) **CHANGES; ORDERS IN ERROR:** Any changes requested by Customer after signing the Statement of Work will be separately designed and priced by WaldrichSiegen. No change will be made to the Statement of Work without receipt of a written change order accepted in writing by the WaldrichSiegen. If Customer desires to return Products ordered in error, Customer must make such request in writing to the authorized WaldrichSiegen representative within ten (10) days of delivery. If WaldrichSiegen chooses to accept the return, WaldrichSiegen will advise Customer in writing of the conditions of the return, including, but not limited to, a restocking fee not to exceed ten percent (10) of the invoice value of the Products being returned, freight charges to be prepaid by the Customer, and a stipulation that such items must be in new condition. Credit to the Customer is dependent upon receipt of the Products, confirmation of count, and final inspection by WaldrichSiegen.
- 9) **RETURNS:** All returns, regardless of the reason, must be accompanied by the current Return Material Authorization paperwork, as provided by WaldrichSiegen and completed by the Customer.
- 10) **ACCELERATION:** Customer agrees that WaldrichSiegen, at its discretion, may accelerate and make due and payable all remaining payments if Customer shall fail to perform any of its obligations hereunder or under the Statement of Work, including without limitation Customer's failure to pay any amount when due, subject to any applicable cure periods provided for herein.
- 11) **CANCELLATION:** In the event that Customer cancels all or a portion of the Services required by the Statement of Work, Customer will be obligated to pay WaldrichSiegen's cancellation charges which shall be equal to WaldrichSiegen's direct costs of goods sold and all out of pocket expenses related to the Services, plus direct labor costs and fixed charges relating to the

design and manufacture of the Products, plus ten percent (10%) of the total final price as liquidated damages.

- 12) **LIMITED WARRANTIES:** Unless otherwise provided in writing by an authorized representative of WaldrichSiegen, all Products manufactured by WaldrichSiegen and sold hereunder are warranted to conform to WaldrichSiegen's published specifications (if applicable) and shall be free from defects in workmanship and material, under normal and proper use and service. The foregoing warranty shall run to the original Customer only for a period of twelve (12) months from date of shipment, in any case, not to exceed eighteen (18) months from date of readiness for shipment at WaldrichSiegen's facility (the "Warranty Period"). Corrosion or other chemical action is specifically excluded as a defect covered hereunder. Services provided for hereunder shall be performed in a workmanlike manner, and in accordance with industry standards. WaldrichSiegen agrees during the Warranty Period specified above, (a) to repair or replace, at WaldrichSiegen's option, defective Products so as to cause the same to comply materially with the agreed specifications, and (b) to provide corrective Services so as to cause such Services to be performed in accordance with the terms hereof; provided that Customer shall (x) promptly notify WaldrichSiegen in writing upon the discovery of any defect, which notice shall provide precise details of the warranty claim, and (y) after WaldrichSiegen's review, WaldrichSiegen will either provide Customer with a Return Material Authorization (RMA) or dispatch personnel to Customer's facility. Then, if applicable, Customer may return the defective Products to WaldrichSiegen with the costs prepaid by Customer. Replacement parts may be new or refurbished, at the election of WaldrichSiegen. All replaced parts become the property of WaldrichSiegen. Shipment to Customer of repaired or replacement Products shall be made in accordance with the delivery provisions of these Terms and Conditions, freight, duties and taxes charged to Customer. If applicable, WaldrichSiegen will provide corrective Services at no labor cost to Customer. Travel and living expenses, however, are Customer's responsibility and Customer shall pay all travel and living expenses or reimburse WaldrichSiegen in accordance with the Service Rate Schedule. Notwithstanding the foregoing, Products supplied by WaldrichSiegen that are obtained by WaldrichSiegen from an original manufacturer or third party supplier are not warranted by WaldrichSiegen, but WaldrichSiegen agrees to assign to Customer any warranty rights in such Product that WaldrichSiegen may have from the original manufacturer or third party supplier, to the extent such assignment is allowed by such original manufacturer or third party supplier.

In no event shall WaldrichSiegen have any obligation to make repairs, replacements or corrections required, in whole or in part, as a result of (i) normal wear and tear, (ii) accident, disaster or event of force majeure, (iii) misuse, fault or negligence of or by Customer, (iv) use of Products in a manner for which they were not designed, (v) external causes such as, but not limited to, power failure or electrical power surges, (vi) improper storage and handling of the Products or (vii) use of Products in combination with equipment or software not supplied by WaldrichSiegen. If WaldrichSiegen determines that Products for which Customer has requested warranty services are not covered by the warranty hereunder, Customer shall pay or reimburse WaldrichSiegen for all costs of investigating and responding to such request at WaldrichSiegen's then prevailing time and materials rates. ANY INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN WALDRICH SIEGEN WITHOUT WALDRICH SIEGEN'S PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS NOT SUPPLIED BY WALDRICH SIEGEN, SHALL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THE AFFECTED PRODUCTS.

THE OBLIGATIONS CREATED BY THIS WARRANTY STATEMENT TO REPAIR OR REPLACE A DEFECTIVE PRODUCT OR TO PROVIDE CORRECTIVE SERVICES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO CUSTOMER IN THE EVENT OF A DEFECTIVE PRODUCT OR SERVICES. EXCEPT AS EXPRESSLY PROVIDED IN THIS LIMITED WARRANTY, WALDRICH SIEGEN HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCTS OR SERVICES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. WALDRICH SIEGEN DOES NOT WARRANT THAT THE PRODUCTS ARE ERROR-FREE OR WILL ACCOMPLISH ANY PARTICULAR RESULT. ANY ADVICE OR ASSISTANCE FURNISHED BY WALDRICH SIEGEN IN RELATION TO THE PRODUCTS PROVIDED FOR HEREUNDER SHALL NOT GIVE RISE TO ANY WARRANTY OR GUARANTEE OF ANY KIND, AND SHALL NOT CONSTITUTE A WAIVER BY WALDRICH SIEGEN OF ANY PROVISIONS OF THE STATEMENT OF WORK OR THESE TERMS AND CONDITIONS, UNLESS OTHERWISE AGREED TO IN WRITING.

- 13) SHORTAGE, LOSS, DAMAGES and NON-CONFORMITY:** It is the Customer's responsibility to notify the freight carrier of any shortages, losses, or damage. This notification must be noted on the Bill of Lading at time of delivery. Shortage, loss, or damage claims will be disallowed if not reported within fifteen (15) calendar days of the date of readiness for shipment and the responsibility for repairs/replacement will be on the Customer. Without expanding the Limited Warranty set forth in Section 12 hereof, Customer shall have (i) thirty (30) days after delivery to its facility to inspect and test any Products provided hereunder for any apparent non-conformity, and (ii) fifteen (15) days after the performance of any Services to inspect such Services for any apparent non-conformity. Failure to so inspect and test, or to give notice to WaldrichSiegen of any claim during the respective periods above, shall constitute an irrevocable acceptance of the Products and/or Services, and a waiver of any defect or warranty claim that could have been discovered by inspecting and testing. Customer shall have the right to reject or refuse acceptance of any non-conforming Products or Services during the respective periods.
- 14) LIMITATION OF LIABILITY:** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE TOTAL LIABILITY OF WALDRICH SIEGEN UNDER THE STATEMENT OF WORK AND THESE TERMS AND CONDITIONS (WHETHER BY REASON OF BREACH OF CONTRACT, TORT, INDEMNIFICATION, OR OTHERWISE) SHALL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL PURCHASE PRICE THERETOFORE PAID BY CUSTOMER TO WALDRICH SIEGEN WITH RESPECT TO THE PRODUCT(S) AND/OR SERVICES GIVING RISE TO SUCH LIABILITY. IN NO EVENT SHALL WALDRICH SIEGEN BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF REVENUE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF GOODWILL), REGARDLESS OF WHETHER WALDRICH SIEGEN HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. ALL CLAIMS OF WHATSOEVER NATURE SHALL BE DEEMED WAIVED UNLESS MADE IN WRITING WITHIN NINETY (90) DAYS OF THE OCCURRENCE GIVING RISE TO THE CLAIM. MOREOVER, ANY FAILURE OF CUSTOMER TO NOTIFY WALDRICH SIEGEN OF UNSATISFACTORY OPERATION OR ANY IMPROPER OR UNAUTHORIZED INSTALLATION, MAINTENANCE, USE, REPAIR, ADJUSTMENT, OR ATTEMPTS TO OPERATE THE EQUIPMENT OR PRODUCTS OUTSIDE THE DESIGN LIMITS SHALL RELIEVE WALDRICH SIEGEN OF ANY FURTHER RESPONSIBILITIES HEREUNDER. NOTHING HEREIN IS INTENDED TO EXPAND UPON THE SOLE AND EXCLUSIVE REMEDY AVAILABLE FOR DEFECTIVE PRODUCTS OR SERVICES AS SET FORTH IN SECTION 12 HEREOF.

- 15) INSPECTION AND TESTS:** Inspection of Products in WaldrichSiegen's plant by or on behalf of Customer shall be permitted provided that such inspection does not interfere with production and the details of the proposed inspection are submitted to WaldrichSiegen in writing at least ten (10) days in advance. Products and any components thereof shall be tested in accordance with WaldrichSiegen's standard quality assurance procedures. If acceptable to WaldrichSiegen, additional tests requested by Customer may be conducted at Customer's risk and expense.
- 16) SPECIAL JIGS, FIXTURES AND PATTERNS:** Unless supplied by Customer, any jigs, fixtures, patterns, design engineering, and the like which are used for the preparation of Customer's order requirements shall remain WaldrichSiegen's property without credit to Customer. WaldrichSiegen shall have the right to discard and scrap such items after they have been inactive for one (1) year without credit to Customer provided that if the Customer supplied or paid for any of the materials associated with the item, Customer shall be given ninety (90) days' notice and the opportunity to buy such materials before discarding or scrapping.
- 17) DEFAULT BY CUSTOMER:** Time is of the essence for Customer's obligations. Customer shall be conclusively deemed to be in default hereunder if, at any time or from time to time: (i) Customer fails to pay when due, whether by acceleration or otherwise, any amount now or hereafter owing to WaldrichSiegen; (ii) Customer fails to duly observe or perform any of the obligations of Customer, or breaches any of the covenants, terms or agreements herein or in any other agreement made between WaldrichSiegen and Customer; (iii) Customer commits or threatens to commit an act of bankruptcy or ceases or threatens to cease to carry on business as a going concern, or a proceeding in bankruptcy, receivership, insolvency, or reorganization is instituted by or against Customer or any of Customer's property, or any compromise or arrangement between Customer or any of Customer's creditors is proposed, or execution or other process of any court becomes enforceable against Customer or all or part of Customer's property, or distress or similar process is levied upon all or part of Customer's property; (iv) if any information provided at any time by Customer to WaldrichSiegen is false or misleading; or (v) Customer fails or refuses to accept delivery of the Services or Products in accordance with the Statement of Work or these Terms and Conditions.
- 18) REMEDIES OF WALDRICH SIEGEN:** Subject to any applicable statutory provisions, if Customer is in default hereunder then, in addition to any other right or remedy WaldrichSiegen may have (including, without limitation, those provided to a secured party under any applicable personal property security legislation) WaldrichSiegen may, with or without legal process, notice or demand, and without any liability whatsoever to WaldrichSiegen: (i) declare all amounts owing by Customer hereunder to be immediately due and payable; (ii) enter upon the property wherever the Products may be, take constructive possession or actual possession of, and remove, such Products selected by WaldrichSiegen as shall in its reasonable judgment have a value sufficient to satisfy Customer's indebtedness and obligations; (iii) if any taxes, rates, levies, assessments or other charges become payable in respect of, or any mortgage, charge, lien, encumbrance or security interest is acquired against, the Products, make such payments and take such action as is necessary in WaldrichSiegen's reasonable judgment to release, discharge, subordinate or postpone same, in whole or in part; (iv) dispose of the Products by means of public sale, private sale, lease or otherwise; (v) make any commercially reasonable repairs to the Products and charge the same to the Customer's account; (vi) deduct its expenses (including legal fees and costs on a full indemnity basis) incurred in enforcing and defending its rights and in repossessing, holding, repairing and disposing of the Products from the proceeds of disposition;

or (viii) enforce payment of any deficiency which exists after all amounts owing by the Customer are deducted from the net proceeds of disposition. WaldrichSiegen's rights and remedies are cumulative and WaldrichSiegen may exercise or enforce any one or more of them successively or concurrently.

**19) CUSTOMER'S COVENANTS:** Until all amounts payable by Customer hereunder are paid in full, Customer covenants and agrees that, except as expressly consented to or agreed in writing by WaldrichSiegen, Customer shall: (i) keep the Products free from all mortgages, charges, liens, encumbrances and security interests except for such in favor of WaldrichSiegen; (ii) keep the Products in good working order, condition and repair; (iii) not keep or use the Products in violation of this agreement, any insurance policy or applicable law; (iv) keep accurate and complete records concerning the Products and the Equipment including maintenance logs; (v) permit WaldrichSiegen to access the Products and the Equipment; (vi) not sell, lease or transfer the Products or any interest therein; (vii) notify WaldrichSiegen of any change in Customer's name or address; (viii) for so long as amounts shall remain owing by the Customer to WaldrichSiegen, all proceeds from any sales or disposition of the Products realized by the Customer or an agent of the Customer, and all other proceeds received in respect of the Products, shall be held in trust by the Customer or such agent for WaldrichSiegen and shall on demand be forthwith paid to WaldrichSiegen.

**20) FORCE MAJEURE:** Neither party shall be liable to the other party for failure to perform any of its obligations hereunder (except for payment of money) due to an Act of God, accident, fire, flood, riot, war, sabotage, explosion, strike or labor disturbance (however neither party shall be obligated to settle any strike or similar dispute even if able to do so), national defense requirements, governmental law, ordinance, rule or regulations, whether valid or invalid, extraordinary failure of equipment or apparatus, inability to obtain electricity or other type of energy, raw material shortage, equipment or transportation shortage or unavailability, or any other similar or different contingency beyond the party's reasonable control which would make performance impractical whether or not the contingency is of the same class as those enumerated above (the foregoing conditions and events herein referred to individually and collectively as "Force Majeure"). The party invoking Force Majeure shall provide the other party with an estimate as to when Force Majeure condition will end. The period for performance shall be extended by the duration of any Force Majeure period, except that if such Force Majeure shall continue for a period of greater than one-hundred twenty (120) days, the party seeking performance may cancel its obligations hereunder.

**21) CONFIDENTIALITY:** Other than in the performance of the terms of the Statement of Work and these Terms and Conditions, neither party or its agents, employees, or subcontractors shall use or disclose to any person or entity any confidential information (identified as such by the disclosing party) of the other party (whether written, oral, electronic or other form) that is obtained or otherwise prepared or discovered either in the performance of its obligations hereunder, through access to the other party's assets, property, systems of whatever kind, or while on the other party's premises. Customer agrees that all pricing, discounts, design drawings and technical information that WaldrichSiegen provides to Customer are the confidential and proprietary information of WaldrichSiegen, whether or not otherwise identified as such. Each party warrants and represents that each employee, agent or subcontractor who performs work in connection herewith has been informed of the obligations contained herein and has agreed to be bound by them.

The obligations under this Section continue perpetually and survive the termination or expiration of any underlying

agreement between the parties. The provisions of this article relating to use and disclosure shall not apply to any information that is (i) rightfully known by a party prior to its disclosure; (ii) rightfully obtained by a party from any third party; (iii) becomes available to the public without restrictions; or (iv) disclosed by a party with prior written approval of the other party.

**22) MISCELLANEOUS:**

- a) Customer may not delegate any duties nor assign any rights or claims hereunder without WaldrichSiegen's prior written consent, and any such attempted delegation or assignment shall be void.
- b) In the event that one or more provisions contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall remain in full force and effect, unless the revision materially changes the bargain.
- c) Either party's failure to enforce, or the waiver of a breach of, any provision contained herein shall not constitute a waiver of any other or future breach of such provision.
- d) Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after being sent by certified mail, postage prepaid, to a party at the address specified herein or in the Statement of Work, or at such other address as either party may from time to time designate to the other.
- e) Customer agrees that it will not use the WaldrichSiegen name(s), logo(s) or mark(s) in any public communication or press release, or for any other marketing or promotional purpose, without WaldrichSiegen's prior written consent.
- f) Unless otherwise specifically agreed to in writing signed by an authorized WaldrichSiegen representative neither Customer nor any representative of Customer, nor any other person acting for on behalf of Customer, shall have any right to examine or audit WaldrichSiegen's accounts, books or records, or be entitled to, or have control over, any engineering or production prints, drawings or technical data which WaldrichSiegen, in WaldrichSiegen's sole discretion, may consider in whole or in part proprietary to WaldrichSiegen.

**23) ENTIRE AGREEMENT:** The Statement of Work and these Terms and Conditions and any attachments referenced therein, constitute, with respect to the subject matter hereof, the complete and exclusive statement of the contract between WaldrichSiegen and Customer. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless made in writing and signed by WaldrichSiegen and Customer. WaldrichSiegen's failure to object to terms contained in any subsequent communication from Customer (whether in a purchase order or other communication) will not be a waiver or modification of the terms set forth herein.

**24) APPLICABLE LAW AND JURISDICTION:** The Statement of Work and these Terms and Conditions shall be deemed an agreement made under the laws of the Commonwealth of Pennsylvania, and for all purposes shall be construed and enforced in accordance with and governed by the internal laws of the Commonwealth of Pennsylvania without reference to its conflicts of laws provisions notwithstanding delivery by WaldrichSiegen in a state or country other than Pennsylvania USA. Customer hereby knowingly and for due consideration submits to the jurisdiction of the United States District Court for the Western District of Pennsylvania in Pittsburgh or the Court of Common Pleas of Allegheny County, Pennsylvania, and hereby waives all rights to contest the venue or jurisdiction of such courts. Any suit or judicial proceeding brought by Customer for breach of contract, for any alleged tortious conduct or any claim whatsoever brought in law or equity must



be filed within one year from the date the cause of action accrued or be forever barred. The UN Convention on Contracts for the International Sale of Goods shall not apply hereto and the parties hereby waive its application in all respects.