

EAST END WELDING LP
Standard Terms and Conditions of Sale

The terms set forth in this form are the sole terms for the sale of goods and services by East End Welding LP, a Delaware limited partnership ("EEW"), unless otherwise specifically provided for by EEW in this document, and shall apply to the exclusion of any inconsistent or additional terms contained in the end purchaser's ("Buyer") order or acknowledgment or otherwise proposed by Buyer. Buyer's acceptance of these terms shall be conclusively presumed by Buyer's acceptance of an acknowledgment copy of any of EEW's quotation, order acknowledgement or invoice forms, or by Buyer's acceptance of delivery of, or payment for, the goods and services.

1. **Limited Warranty.** EEW'S warranty period is one year from the date of manufacture and is limited to correction of defects in EEW workmanship. If, within such period, any such product shall be proved to EEW's satisfaction to be defective, EEW shall, at EEW's option, either repair or replace such defective products or issue a credit or refund for that part of the purchase price of such product which is equitably allocable to the part or parts of such product which gives rise to such claim. EEW shall not be liable for the costs of removing defective products or reinstalling repaired or replaced products. At EEW's discretion, any warranty service may be performed either at EEW's facility or at another location, which may include the Buyer's location. Warranty satisfaction is available only if EEW is promptly notified in writing and EEW's examination discloses, to its satisfaction, that any alleged defect has not been caused by misuse. In addition, the warranty set forth above is inapplicable to and excludes any defect, damage or malfunction resulting from failure of raw material, parts, components or services not provided by EEW. Products supplied by EEW hereunder which are manufactured by someone else are not warranted by EEW in any way, but EEW agrees to assign to Buyer any warranty rights in such products that EEW may have from the original manufacturer.

2. **Buyer's Design Responsibility.** Buyer acknowledges that EEW's goods are produced or provided according to Buyer's specifications. Buyer acknowledges that Buyer is not relying on EEW in any way with respect to the suitability of its products or the adequacy of the specifications. EEW has no responsibility for design, engineering, or other advice, regarding any product specifications provided by Buyer. Buyer shall defend, indemnify and hold EEW harmless against all product liability, product recall, and other claims, liabilities and expenses, including but not limited to actual attorney fees incurred by EEW, arising out of any claimed design or engineering defect relating to specifications provided by Buyer to EEW.

3. **WARRANTY DISCLAIMER** EEW EXPRESSLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4. **Force/Majeure.** EEW will not be liable for any loss, damage or delay arising out of its failure to perform hereunder due to causes beyond its reasonable control, including without limitation, acts of God or the customer, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, acts of terrorism, riots, delays in transportation, or transportation embargos. In the event of any such delay, EEW's performance date(s) will be extended for that length of time as may be reasonably necessary to compensate for the delay.

5. **LIMITATION OF LIABILITY.** EEW's liability with respect to breaches of warranty shall be limited as provided in Section 1. With respect to other breaches of this contract, EEW's liability shall in no event exceed the contract price. Any action against EEW must be brought within twelve (12) months after the cause of action accrues. UNDER NO CIRCUMSTANCES WHATSOEVER SHALL EEW BE

LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR SIMILAR DAMAGES OF ANY KIND, WHETHER FORESEEABLE OR UNFORESEEABLE AND WHETHER ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, STRICT LIABILITY IN TORT, NEGLIGENCE, MISREPRESENTATION, OR OTHERWISE. Without limiting the generality of the foregoing, EEW specifically disclaims any liability for penalties (including administrative penalties), special or punitive damages, damages for lost profits or revenues, loss of use of products, lost goodwill, or any associated equipment, cost of capital, facilities or services, downtime, shut-down or slow-down costs, spoilage of material, or from any other types of economic loss. All the limitations and disclaimers contained in this paragraph and in the rest of this contract shall apply to claims of Buyer's customers or any third party asserted by Buyer against EEW for indemnity or contribution, as well as direct claims of Buyer against EEW.

6. **Governing Law**. Ohio law shall govern all transactions to which these standard terms and conditions apply. EEW and Buyer agree that any action arising out of the sale of goods or services in accordance with this document will be brought, heard and decided in Portage County, Ohio. Buyer submits to personal jurisdiction in Ohio.

7. **Indemnification of EEW (Patents)**. Buyer shall indemnify, defend, and hold EEW and its agents harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees, arising out of any claim of infringement of a patent, copyright, trademark, trade name, or other proprietary right, or claim of unfair trade or of unfair competition in connection with the manufacture, sale, or use of the goods sold to Buyer, except to the extent that any claim, liability, or expense arises solely from specifications developed by EEW.

8. **Assignment**. Buyer shall not assign its rights or delegate its duties under this document without EEW's prior written consent. EEW may assign to any third party its rights and obligations with respect to Buyer.

9. **Entire Agreement and Amendment**. This document contains all of the terms of the agreement between EEW and Buyer with regard to its subject matter and supersedes all prior oral or written representations, agreements, and other communications between EEW and Buyer. The contract evidenced by this document may be amended only in writing signed by Buyer and an authorized agent of EEW.

10. **Severability**. All terms shall be enforced only to the maximum extent permitted by law. If any term is invalid or unenforceable, all other terms shall remain in effect.