

FESSENDEN HALL, INC/FESSENDEN HALL OF PA., INC

TERMS AND CONDITIONS OF SALE

SALES ARE EXPRESSLY LIMITED TO AND MADE CONDITIONAL UPON THE TERMS AND CONDITIONS CONTAINED HEREIN. OBJECTION BY BUYER TO ANY OF THE TERMS CONTAINED HEREIN SHALL BE DEEMED TO HAVE BEEN WAIVED (IF NOT PREVIOUSLY WAIVED) IF WRITTEN NOTICE OF THE OBJECTION IS NOT RECEIVED BY FESSENDEN HALL INC./FESSENDEN HALL OF PA., INC (“SELLER”) WITHIN TEN DAYS OF THE DATE OF SALE OR BEFORE PART OF THE DESCRIBED GOODS ARE ACCEPTED BY BUYER, WHICHEVER OCCURS FIRST. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY BUYER ARE REJECTED UNLESS ASSENTED TO IN WRITING BY SELLER.

- 1. DISCLAIMER OF WARRANTIES.** SELLER DISCLAIMS WITH RESPECT TO THE GOODS SOLD HEREUNDER ALL WARRANTIES EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. THE ONLY WARRANTIES AND REMEDIES FOR BREACH OF WARRANTY, IF ANY, PROVIDED IN CONNECTION WITH THE SALE OF THE GOODS SOLD HEREUNDER SHALL BE THOSE WARRANTIES AND REMEDIES PROVIDED BY THE MANUFACTURER OF THE GOODS AS SET FORTH IN THE PRODUCT LITERATURE OF THE MANUFACTURER ACCOMPANYING SUCH GOODS UPON DELIVERY TO BUYER.
- 2. LIMITATION ON REMEDIES.** UNLESS OTHERWISE AGREED BETWEEN BUYER AND SELLER, BUYER’S EXCLUSIVE REMEDY AGAINST SELLER FOR BREACH OF THIS CONTRACT SHALL, AT THE OPTION OF SELLER, BE TO EITHER RETURN THE GOODS TO SELLER AND OBTAIN REPAYMENT OF THE PURCHASE PRICE, PERMIT SELLER TO CURE THE NON-CONFORMING GOODS BY REPAIR OR REPLACEMENT OF DEFECTIVE PARTS OR TO DELIVER REPLACEMENT GOODS. THE ABOVE IS SUBJECT TO FULL COMPLIANCE BY BUYER WITH ANY INSTRUCTIONS OF SELLER AND THE MANUFACTURER REGARDING STORAGE, HANDLING, ASSEMBLY AND APPLICATION PERTAINING TO THE PARTICULAR GOODS SOLD, AND SUCH INSTRUCTIONS ARE HEREBY INCORPORATED BY REFERENCE AND MADE PART OF THIS CONTRACT.
- 3. LIMITATION OF LIABILITY.** SELLER’S LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER, WHETHER IN CONTRACT (INCLUDING FOR FAILURE TO DELIVER OR DELAYS IN DELIVERY) OR TORT, INCLUDING NEGLIGENCE

(EXCLUSIVE OF PERSONAL INJURY OR PROPERTY DAMAGE) SHALL BE LIMITED TO THE TOTAL PRICE PAID FOR THE GOODS WHICH HEREIN, IN NO EVENT SHALL SELLER BE LIABLE FOR DIRECT, CONSEQUENTIAL, INDIRECT, SPECIAL OR INCIDENTAL DAMAGES FOR ANY CAUSE WHATSOEVER.

4. **DELAYS.** SELLER SHALL NOT BE LIABLE FOR DELAYS IN DELIVERY OF THE GOODS.
5. **WAIVER.** A WAIVER BY SELLER OF ANY BREACH BY BUYER OF THIS CONTRACT SHALL NOT CONSTITUTE A WAIVER BY SELLER OF ANY OTHER BREACH OF THIS CONTRACT BY BUYER.
6. **DELIVERY.** DELIVERY OF THE GOODS BY SELLER TO THE CARRIER AT THE POINT OF SHIPMENT SHALL CONSTITUTE DELIVERY OF THE GOODS TO BUYER AND THEREAFTER THE GOODS SHALL BE AT BUYER'S RISK. ALL CLAIMS AND ALLOWANCES FOR DAMAGE TO THE GOODS INCURRED IN TRANSIT MUST BE FILED AGAINST AND PRESENTED BY BUYER.
7. **LATE PAYMENTS.** ANY AMOUNTS PAST DUE ARE SUBJECT TO A SERVICE CHARGE OF 2% PER MONTH OR THE MAXIMUM LEGAL RATE, IF SUCH IS LESS.
8. **COLLECTION.** BUYER SHALL REIMBURSE SELLER FOR ALL COSTS OF COLLECTION, INCLUDING REASONABLE ATTORNEY'S FEES, INCURRED BY SELLER TO COLLECT ANY MONIES OWING UNDER THIS CONTRACT.
9. **STATUTE OF LIMITATIONS.** ANY ACTION FOR BREACH OF THIS CONTRACT MUST BE COMMENCED BY BUYER WITHIN THIRTEEN (13) MONTHS AFTER THE CAUSE OF ACTION HAD ACCRUED.
10. **APPLICABLE LAW.** THIS CONTRACT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW JERSEY.
11. **CONFESSION OF JUDGEMENT.** THE BUYER AUTHORIZES THE CLERK PROTHONOTARY OF ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR THE BUYER AND CONFESS JUDGEMENT AGAINST THE BUYER FOR ANY SUM UNPAID UNDER THIS INVOICE.