

1 APPLICABILITY

All purchase orders are accepted and executed on the understanding that the Customer is bound by the following Standard Conditions of Sale (“Terms”). Where there is inconsistency between these Terms and any conditions which the Customer seeks to impose, these Terms shall prevail. Any deviations to these Terms shall only be binding upon Hamilton if approved in writing.

2 VALIDITY OF QUOTATIONS

Hamilton reserves the right to refuse the Customer’s acceptance of a quotation unless such quotation is stated to be open for a specific period and is not withdrawn in such period.

3 PRICES AND DISCOUNTS

The published prices of Hamilton Products are those ruling on the date of publication and are subject to alteration without notice. Prices and currency transactions are in U.S.A. dollars.

4 NEW ACCOUNTS

Where a credit account is desired, a bank and as many as five trade references may be required. Hamilton reserves the right to not grant credit to any Customer for any reason whatsoever.

5 SHIPPING, TITLE AND RISK OF LOSS

- 5.1 Unless otherwise agreed by the parties, Products are delivered by Hamilton FOB Reno, Nevada, U.S.A. to the Customer’s registered office exclusive of duty, insurance, taxes, and VAT. Title and risk of loss passes to Customer upon delivery of the Products to the common carrier. When special delivery arrangements are requested, special rates will be charged. All delivery times shall be approximate.
- 5.2 The delivery time is reasonably extended if hindrances occur which prevent Hamilton from performing under a purchase order by force majeure. Hindrances are circumstances beyond the reasonable control of Hamilton including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party’s workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, mobilization, serious breakdowns in the works, accidents, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, official actions or omissions by any state authorities or public bodies, and natural catastrophes. If the Customer claims damages for delayed delivery, it must be proven that the delay has been caused through Hamilton’s fault and that the Customer has suffered a loss as a result of such delay. If substitute material can be supplied to accommodate the Customer, the latter is not entitled to claim any delayed damages. Any delayed delivery does not entitle the Customer to any rights and claims other than those expressly stipulated herein.
- 5.3 The Customer shall be obliged to cooperate in the delivery of the Products and to take receipt of same. Hamilton may keep any Products refused or not accepted by the Customer at the latter party’s disposal for account and at the risk of the Customer.

6 LOSS OR DAMAGE IN TRANSIT

Clear receipts should be given only if Products have been examined, as an unqualified signature may react to the disadvantage of the Customer if the consignment should become the subject of a claim. In the event of short delivery or damage in transit, it is essential that Hamilton’s dispatching depot be advised within two days of receipt of Products.

In the event of non-delivery, Hamilton’s dispatching depot should be advised within seven (7) days of the date of invoice. Hamilton will not be responsible for Products lost or damaged in transit unless the above conditions are observed.

7 DEFAULT

Hamilton shall have the right to discontinue delivery and also at its discretion to terminate any agreement in respect of any undelivered Products if the Customer defaults in payment as stated under section 13 of this document or in respect of its other obligations to Hamilton.

8 DEFECTS AFTER DELIVERY

Hamilton will make good, by repair at Hamilton’s option, or by the supply of replacement, any defects, which under proper use, appear in the Products within a period of 12 calendar months after the Products have been delivered and arise solely from faulty design, materials or workmanship; provided that no complaints shall be admissible unless submitted in writing to Hamilton within five (5) days after the time of discovery of the defect or after the time the defect should have been discovered, whichever time comes first, it being understood that the Customer shall take reasonable care to discover any defect of whatever nature as soon as possible after taking delivery. Provided further that in respect of parts or components not of Hamilton’s manufacture, Hamilton will give the Customer a guarantee equivalent to the guarantee (if any) that Hamilton may have received from the supplier of such parts or components in respect thereof but not so as to impose on Hamilton in respect of such parts or components a liability greater than that imposed on it by the aforesaid period of this clause. **Save as aforesaid and as provided in section 6, Hamilton shall not be under any liability in respect of defects in Products delivered or for any injury, damage, or loss resulting from such defects or from any work done in connection therewith and its liability under this clause shall be in lieu of any warranty or condition implied by law as to the quality of fitness for any particular purpose of such Products.**

9 NONCONFORMING PRODUCTS

- 9.1 Customer shall inspect the Products within ten (10) business days after receipt (“Inspection Period”). Customer will be deemed to have accepted the Products unless they notify Hamilton in writing of any Nonconforming Products during the Inspection Period and furnish such written evidence or other documentation as required by Hamilton. “Nonconforming Products” means only the following:
- (i) Product shipped is different than identified in Customer’s Purchase Order; or (ii) Products label or packaging incorrectly identifies its contents.
- 9.2 If Customer timely notifies Hamilton of any Nonconforming Products, Hamilton shall, at its sole discretion, (i) replace such Nonconforming Products with conforming Products, or (ii) credit or refund the purchase price for such Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Customer in connection therewith. Customer shall ship, at its expense and risk of loss, the Nonconforming Products, in their original packaging, to Hamilton’s facility located at 4970 Energy Way, Reno, Nevada 89502. If Hamilton exercises its option to replace Nonconforming Products, Hamilton shall, after receiving Customer’s shipment of Nonconforming Products, ship to Customer, at Hamilton’s expense and risk of loss, the replaced

Products to the Customer at their location.

9.3 Customer acknowledges and agrees that the remedies set forth in Section 9.2 are Customer's exclusive remedies for the delivery of Nonconforming Products.

10 RESERVATION OF OWNERSHIP/PASSING OF RISK

Products supplied to the Customer by way of sale shall remain the property of Hamilton until payment in full of all its claims on the Customer on whatsoever account has been received by Hamilton but risk in the same shall pass upon delivery. The Customer acting as bailee shall deal with the Products separately and store according to the agreed methods of storage so that the Products not paid for may be clearly identified and shall not be mixed with other goods. The Customer shall be entitled to pass ownership in unpaid Products to third parties provided that all sums received shall be held for the account of Hamilton.

11 RETURN OF PRODUCTS

Hamilton does not expect the return of Products for credit unless it is a justified warranty claim. All returns must be authorized in advance. Unauthorized returns will be refused. In no circumstances may Products supplied against a firm order be returned without the Customer having first applied for and obtained both written consent and a Returned Products Authorization (RGA) number from Hamilton. Hamilton reserves the right to refuse the return of any Products that has been used with infectious, microbiological, or radioactive substances or other materials that may be deemed hazardous to the employees of Hamilton. A handling charge amounting to not more than 20 percent of the invoice value of the returned Products may be deducted from any credit allowed where it is established that the reason for their return is not subject to the provision of Section 6 or 8 hereof or through any error on the part Hamilton. Products approved for return must be received by Hamilton within 30 (thirty) days of issuance of an RGA.

12 TAXES & FEES

Customer will pay, when due, all taxes, including sales, use, privilege, excise, personal property, value added, and other taxes, but not federal or state income or franchise taxes imposed on Hamilton, and all other governmental charges, assessments, fees and any related interest or penalties imposed with respect to the Products or the transactions contemplated by a Purchase Agreement.

13 PAYMENT TERMS

13.1 Customer shall pay all invoiced amounts due to Hamilton in US dollars, NET 30 days from the date after receipt of Hamilton's invoice. Customer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Hamilton, whether relating to Hamilton's breach, bankruptcy, or otherwise.

13.2 Should an invoiced amount be disputed by the Customer, Customer shall have the opportunity to pay the dispute in full under protest in order to avoid the application of penalties and interest. Should the dispute be determined and resolved in favor of the Customer, Customer shall be entitled to reimbursement of the disputed amount.

14 LIMITED WARRANTY

14.1 Hamilton warrants that Consumables will conform to Hamilton specifications until (i) expiration date printed on such Consumable, or (ii) if no printed expiration for a period of twelve (12) months from shipment date.

14.2 The warranty period for Hardware is twelve (12) months from the install ("Installation Date"). The Installation Date shall be that date on which the Hardware is installed and installation qualification to show performance to Specification has been met.

14.3 The warranty expressly does not cover damage caused by normal wear, faulty maintenance performed by a third party, failure to observe the operating instructions, and installation not carried out by Hamilton as well as due to other reasons for which Hamilton is not responsible. HAMILTON MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY OF TITLE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

14.4 Hamilton shall not be liable for a breach of the warranty set forth in Section 14 if: (i) Customer makes any further use of such Products after giving such notice of breach; (ii) the defect arises because Customer failed to follow Hamilton's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products; or (iii) Customer alters or repairs such Products without the prior written consent of Hamilton.

14.5 THE REMEDIES SET FORTH IN SECTION 14 SHALL BE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND HAMILTON'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 14.

15 LIMITATION OF LIABILITY

15.1 IN NO EVENT SHALL HAMILTON BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY CUSTOMER OR COULD HAVE BEEN REASONABLY FORESEEN BY CUSTOMER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL HAMILTON'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO A PURCHASE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO HAMILTON FOR THE PRODUCTS SOLD IN THE PURCHASE AGREEMENT.

15.2 The limitation of liability set forth in Section 15.1 above shall not apply to (i) liability resulting from Hamilton's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Hamilton's gross negligent or willful acts or omissions.

16 PATENTS

Hamilton represents and warrants to Customer that the manufacture, use or sale of the Product does not infringe on any patent, trademark or other intellectual property of any third party. Hamilton agrees to indemnify and hold Customer harmless from all lawsuits, judgments, claims, costs and expenses, including but not limited to reasonable attorney and accountant fees arising in connection with any third party patent infringement claim that have been pre-approved in writing by Hamilton.

Customer shall promptly, within ten (10) business days, notify and inform Hamilton of any claimed patent infringement claim that has been made against it relating to Product. If the Product sold under the present conditions are produced or modified according to Customer's requirements, Customer agrees to indemnify and hold Hamilton harmless from all lawsuits, judgments, claims, costs and expenses, including but not limited to attorney's and accountant's fees arising in connection with patent infringement involving Customer's modifications.

17 WAIVER

No waiver by Hamilton of any of the provisions of these Terms is effective unless explicitly set forth in writing and signed by Hamilton. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these Terms operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

18 ATTORNEY FEES

Should either party hereto, or any heir, personal representative, successor or assign of either party hereto, resort to litigation to enforce a Purchase Agreement the parties shall be responsible for their own attorney's and accountant's fees associated with the costs of litigation, and in no event shall the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable attorneys' fees and costs in such litigation from the party against whom enforcement was sought.

19 CONFIDENTIAL INFORMATION

All non-public, confidential or proprietary information of Hamilton, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Hamilton to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with a Purchase Agreement is confidential, solely for the use of performing the Purchase Agreement and may not be disclosed or copied unless authorized in advance by Hamilton in writing. Upon Hamilton's request, Customer shall promptly return all documents and other materials received from Hamilton. Hamilton shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Customer at the time of disclosure; or (c) rightfully obtained by Customer on a non- confidential basis from a third party.

20 ASSIGNMENT

Customer shall not assign any of its rights or delegate any of its obligations under a purchase order without the prior written consent of Hamilton. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under a purchase order.

21 NO THIRD-PARTY BENEFICIARIES

A purchase order is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

22 LEGAL CONSTRUCTION

These Terms and all sale contracts to which the same apply shall be construed in accordance with the laws of the State of Nevada, U.S.A. Any disputes arising in connection with these Terms and all sale contracts to which the same apply shall be finally settled by arbitration in accordance with the laws and rules of the State of Nevada and such proceedings held and located in Reno, Nevada, U.S.A.

23 SEVERABILITY

If any term or provision of these Terms are invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.