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## RESEARCH TOOL & DIE WORKS, LLC STANDARD TERMS AND CONDITIONS

These standard terms and conditions shall apply to and form a part of this order and cannot be modified or amended except as expressly agreed to in writing by an authorized representative of Research Tool & Die Works, LLC.

### 1. Definitions

1.1. “**PO**” or “**Purchase Order**” or “**Order**” or “**Contract**” shall mean the Purchase Order, and any referenced special or supplemental provisions, drawings, technical data, specifications, any statement of work, quality provisions (in all cases including any changes), and all other documents incorporated therein.

1.2. “**Company**” shall mean Research Tool & Die Works, LLC, including its parent company, Fairbanks Morse, LLC d/b/a Fairbanks Morse Defense, including its parent company’s divisions, subsidiaries and affiliates.

1.3. “**Purchaser**” shall mean the legal entity, including its affiliates, subsidiaries and agents, contracting with the Company as named on the Purchase Order, quote, proposal, order acknowledgement or other similar document.

1.4. “**Product(s)**” shall mean the goods, services, or articles otherwise identified for purchase in the quote, proposal, order acknowledgement or otherwise accompanying document(s).

### 2. Acknowledgement and Acceptance

All finished goods, parts and services are sold only under these terms and conditions. Any additional or conflicting terms or conditions on Purchaser’s Purchase Order (unless specifically agreed to and acknowledged by an authorized representative of Company) are rejected and shall be deemed inapplicable notwithstanding any provisions in the Purchaser’s Purchase Order to the contrary.

### 3. Delivery

Unless otherwise agreed to in writing, delivery will be F.O.B. point of shipment. Shipping dates are estimates which are not guaranteed and are based upon prompt receipt of all necessary information. Company shall in no event be liable for delays caused by fire, acts of God, strikes, labor difficulties, acts of governmental or military authority, endemics, pandemics, quarantine measures, cyberattacks, delays in transportation or other events beyond Company’s control.

### 4. Warranty

4.1. Company warrants to Purchaser that the Product(s) shall be free from defects in material and workmanship for twelve (12) months after date of installation, but not exceeding eighteen (18) months after date of readiness for shipment. Purchaser must promptly notify Company of any warranty claim within the warranty period.



**4.2.** Company's sole obligation for resolving a valid warranty claim is, at its sole discretion, to repair or replace the non-conforming Product(s) with any associated services being performed in a good and workmanlike manner. Replacement parts shipped F.O.B. Company's factory.

**4.3.** Company's obligation and liability with respect to such warranty shall be strictly limited to the amount received by it from Purchaser on account of the sale of such Product(s) and to claims asserted by Purchaser within ninety (90) days following completion of such services.

**4.4.** Purchaser shall, at Company's request, return claimed non-conforming Product(s) to Company's factory at Purchaser's expense.

**4.5.** All warranties with respect to Product(s) not manufactured by Company shall be limited to the respective warranties of the manufacturers thereof, if any, which Company will extend to Purchaser if permitted.

## **5. Warranty Exclusions**

**5.1.** This warranty shall not apply to Product(s) that were improperly: stored, installed (if not installed by the Company), maintained or operated.

**5.2.** In no event shall Company be responsible for: providing working access to the alleged non-conforming Product(s), including disassembly or reassembly of the equipment; the cost of any repairs or alterations made by others except those repairs or alterations made with its specific written consent; any damages or delays whether caused by defective workmanship, material or otherwise.

**5.3.** THE WARRANTY IS EXCLUSIVE AND IS EXPRESSLY IN LIEU OF, AND PURCHASER HEREBY WAIVES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER OBLIGATIONS OR LIABILITY ON THE PART OF COMPANY.

## **6. Cancellation and Returns**

**6.1.** Purchaser's order cannot be cancelled, deferred, or returned without Company's written consent. If Company consents to Purchaser's written cancellation request provided: at least thirty (30) days prior to the order's scheduled ship date, Purchaser will be charged a 25% fee based on the value of the cancelled Product(s); less than thirty (30) days prior to scheduled ship date, Purchaser will be charged a 50% fee based on the value of the cancelled Product(s). Customer Product(s) and tooling are not cancellable.

**6.2.** If Purchaser requests a return, Purchaser will be charged a fee 50% of the PO total plus the cost of freight to Company. Unless otherwise agreed to in writing, only Product(s) in like new, sellable condition can only be returned. Custom Product(s) and tooling are non-returnable.



## **7. Taxes**

Purchaser shall reimburse Company for any sales, use, occupation, excise or other tax arising out of the sale upon receipt of Company's invoice for the amount of tax or shall provide Company with a tax exemption certificate acceptable to the appropriate taxing authorities.

## **8. Terms of Payment**

Unless otherwise agreed to in writing, terms of payment are cash, in United States Dollars, in full, within thirty (30) days from date of shipment. A service charge for late payment may be assessed

at an interest rate of 1.5% per month (or such other rate allowable by law). All orders are subject to the approval of Company's Credit Department and Company may require full or partial payment in advance. Pro rata payments shall become due as shipments are made, except where shipments are delayed by Purchaser for any reason, in which event payments shall become due from the date on which Company is prepared to make shipment. If manufacture is delayed by Purchaser, Company may elect to require payment based on the contract price and percentage of completion. Any property held for Purchaser shall be at the risk and expense of Purchaser.

## **9. Title and Lien Rights**

The Product(s) shall remain personal property, regardless of how affixed to any realty or structure, and title shall remain with Company until the price of the Product(s) (including any notes or other evidence of indebtedness given therefore) has been fully paid in cash. Company shall, in the event of Purchaser's default, have the right to enter immediately upon the Purchaser's premises without notice and repossess Product(s), Purchaser shall pay all expenses of repossession, including attorneys' fees, as well as any remaining deficiency after sale by Company of the repossessed Product(s).

## **10. Patent Infringement and Other Liabilities**

Company will defend and indemnify Purchaser of Product(s) from any actual or alleged infringement by equipment or any part thereof furnished pursuant hereto of any published, valid United States patent (other than parts of special design, construction, or manufacture specified by or originating with Purchaser) provided: (a) Purchaser notifies Company in writing within thirty (30) days of its receiving notice of said infringement; and (b) Purchaser assists Company in preparing for and defending against such infringement as deemed necessary by Company.

## **11. Limitation of Liability**

Under no circumstances shall Company be liable or otherwise responsible for special, indirect, incidental, collateral or consequential damages of any kind or for loss of power or production, vessel downtime or delays, dry dock expenses, or for lost charters or alternate tonnage or substitute tows or loss of profits or opportunity. The remedies of Purchaser as set forth herein, are exclusive. The liability of Company, on any claim of any kind, whether based on warranty, contract, negligence or otherwise, for any loss or damage arising out of, connected with, or resulting from this contract, or from the performance or breach thereof, or from the manufacture,



sale, delivery, resale, repair or use of any Product(s) covered by or furnished under this contract shall in no case exceed the cost of correcting defects in the equipment as herein provided under "Warranty", and upon expiration of the warranty period all such liability shall terminate. The foregoing shall constitute the sole liability of Company. Purchaser agrees to indemnify and hold harmless Company from all claims by third parties which extend beyond the foregoing limitations of Company's liability.

## **12. Laches**

Failure of Company to exercise any right or remedy under this Contract shall not be deemed a waiver of such right, nor shall any lien or other right of Company be lost or impaired by laches or in any manner or by any act of failure to act except by payment in fully to Company.

## **13. Choice of Law**

It is expressly agreed and understood that this agreement shall be governed by and interpreted under the laws of the State of Wisconsin, U.S.A. Any dispute arising out of or related to this Agreement shall be subject to binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment upon the award rendered by such arbitrators may be entered in any court having jurisdiction. The arbitration will be conducted in English language in Beloit, Wisconsin. The award of the arbitrators will be accompanied by a statement of the reasons upon which the award is based. The parties expressly agree to waive any and all rights to a jury trial.

## **14. NUCLEAR HAZARDS AGREEMENT**

This section, 14. Nuclear Hazards Agreement, shall apply to Product(s) now or hereafter sold or provided to Purchaser by Company for use at or in connection with a Nuclear Facility or Nuclear Installation, as defined below.

**14.1. Public Liability Protections:** (a) Purchaser, or Nuclear Regulatory Commission Licensee of the facility (if Licensee is not the Owner) will obtain and maintain (1) an agreement of indemnification with the United States Nuclear Regulatory Commission or successor Government agency as provided by Section 170 of the Atomic Energy Act of 1954, as amended, and (2) nuclear liability insurance from NEL-ANI or MAELU, or both in such form and such amount as will meet the financial protection requirements established pursuant to Section 170 of said Act. (b) The agreement of indemnification of nuclear liability insurance shall be in effect on or before commencement of operation of the Nuclear Facility or the first arrival of nuclear fuel at the site of the facility, whichever first occurs, and shall remain in effect during the period of operation of the facility, including any post operating decommissioning period where the potential for a Nuclear Incident still remains. (c) In the event that the nuclear liability protection system contemplated by Section 170 of the Atomic Energy Act of 1954, as amended, is repealed or changed, Purchaser or Licensee will obtain and maintain in effect, to the extent available, nuclear liability protection which will not impair the protection provided by such nuclear liability protection system to Company and Company's suppliers to the same extent that Company and Company's suppliers



would have been protected had the nuclear liability protection system contemplated by Section 170 of the Atomic Energy Act not been repealed or changed.

**14.2.** Property Damage: Notwithstanding any other provision to this contract neither Company nor Company's suppliers shall have any liability for damage to or loss of use of any property of Purchaser, Licensee, or of anyone else located at the site of the Nuclear Facility, and Purchaser or Licensee, if different from Purchaser, shall indemnify Company and Company's suppliers, affiliates and personnel ("Company Parties") from and against any and all such claims or losses caused by or arising out of a Nuclear Incident, whether caused by the negligence of Company or any Company Parties or otherwise. With respect to any property damage insurance policies which Purchaser or Licensee purchases in connection with the Nuclear Facility, Purchaser hereby waives, and will secure from the insurance carrier or carriers a written waiver of all rights of recovery or subrogation, if any, against Company or any Company Parties caused by or arising out of a Nuclear Incident, whether caused by negligence of Company or its suppliers, or otherwise.

**14.3.** Personal Injury: Purchaser or Licensee shall assume liability of Company and Company Parties for all claims for bodily injury including death, and Purchaser or Licensee, if different from Purchaser, shall indemnify Company and any Company Parties from and against any and all such claims or losses which may be asserted by any persons including employees of the Purchaser which arise out of or in connection with any Nuclear Incident occurring at the site of the Nuclear Facility, whether caused by negligence of Company, Company Parties, or otherwise.

**14.4.** Transfer: Purchaser or Licensee shall not transfer or permit the transfer of any Product(s) supplied by Company pursuant hereto to any other person for use in connection with a Nuclear Facility or other Nuclear Installation unless and until Purchaser or Licensee has obtained the written agreement of the transferee to accept and comply with these conditions, provided that in the event of a transfer of Product(s) to a Nuclear Installation other than a Nuclear Facility the transferee shall not be required to obtain or maintain an agreement of indemnification pursuant to condition A above but shall be required pursuant to condition A above to carry NEL-ANI and MAELU nuclear liability insurance in the maximum amount available or such lesser amount as Company may agree to in writing. Failure of Purchaser and Licensee to comply with this condition shall make the Purchaser and Licensee the indemnitors of Company and/or Company Parties to the same extent that Company and the Company Parties would have been protected had such transfer not occurred.

**14.5.** Warranty: Although these nuclear conditions of sale shall not affect Company's obligation under the product warranty contained in Company's terms and conditions of sale, Company shall not be obligated to perform any decontamination which may be a prerequisite for Company's fulfillment of the warranty and Purchaser hereby agrees to perform any such required decontamination without any costs to Company.

**14.6.** Agreement by Licensee: In the event Purchaser is not the Licensee of the Nuclear Facility, it shall be the responsibility of Purchaser to obtain the signature of the Licensee at the end of these conditions and provide Company with a fully executed copy. At any time that it



becomes apparent to Company that a completely executed document has not been provided to the Company, Company shall have the right to terminate the work and charge Purchaser for all costs connected therewith. In the event of delivery to the Licensee, the Company and the company Parties shall be protected to the same extent that Company and Company Parties would have been protected had such fully executed document been received by Company.

**14.7.** Definitions: (a) "Nuclear Facility" means any facility, required to provide financial protection pursuant to Section 170 of the Atomic Energy Act of 1954, as amended. (b) "Nuclear Installation" means any installation (other than a Nuclear Facility) involving activities giving the risk of a Nuclear Incident if the risk of liability from any such activity is excluded by the standard Nuclear Liability Exclusion Endorsement contained in conventional liability insurance policies. (c) "Nuclear Incident" means any occurrence causing bodily injury, sickness, disease, or death, or loss or damages to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties or source, special nuclear, or byproduct materials. (d) "Source, special nuclear, and byproduct material" shall mean such materials as defined in the Atomic Energy Act of 1954, as amended. (e) "NEL-ANI" shall mean Nuclear Energy Liability-American Nuclear Insurers. (f) "MAELU" shall mean Mutual Atomic Energy Liability Underwriters. (g) "Company" shall mean Research Tool & Die Works, LLC and its parent company, Fairbanks Morse, LLC d/b/a Fairbanks Morse Defense, and subsidiaries and affiliates thereof.

**14.8.** Scope of Agreement: This Agreement shall apply to all equipment, parts and services now or hereafter sold or provided to Purchaser by Company for use at or in connection with a Nuclear Facility or Nuclear Installation.

## 15. Survivorship

In the event that any provision or part of this Agreement is deemed invalid or unenforceable, the remaining provision or parts shall remain in full force and effect.

## 16. Escalating Costs

Company reserves the right to adjust prices to reflect the impact of any tariffs, duties, or similar governmental charges imposed after the date of its proposal. These adjustments will be calculated to ensure fair allocation of the increased costs. Company will provide advance notice of any such adjustments along with documentation supporting the changes. Additionally, if the imposition of tariffs causes a delay in contract performance, Company will also seek an equitable adjustment to the delivery schedule.

## 17. Purchase Order Requirements

If the Purchase Order is in support of a Government contract, the Prime Contract Number associated with the Government Contract must appear on the face of the Purchase Order, accompanied with the following language: "*This Prime Contract number is for reference only, the terms and conditions of the Prime Contract do not apply to this Purchase Order.*"

## 18. Purchase Order Requirements

If the Purchase Order is in support of a Government contract, the following FARs/DFARs apply:

- FAR 52.225-8 Duty Free Entry



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- FAR 52.229-3 Federal, State, and Local Taxes
  - FAR 52.243-1 Changes-Fixed-Price
  - DFARS 252.225-7013 Duty-Free Entry
  - DFARS 252.243-7002 Requests for Equitable Adjustment