



1. CONTRACT. The "Contract" is the legally binding agreement for Buyer's purchase of the goods and services ("Goods" and "Services") that Schmitt Industries, Inc.; Schmitt Measurement Systems, Inc. or Acuity Laser Measurement (collectively referred to herein as "Schmitt") will provide Buyer in response to Buyer's Purchase Order (the "Purchase Order"). These Terms and Conditions, Schmitt's Quotation (if any) and Buyer's Purchase Order comprise the Contract. The Contract states the parties' entire agreement, superseding prior discussions, correspondence, negotiations and proposals. Buyer's preprinted terms, including those in Buyer's Purchase Order, shall not apply to the Contract to the extent they conflict with these terms and conditions. This Contract shall only be modified in writing and signed by the parties.

2. ACCEPTANCE OF CONTRACT. The Contract shall become binding when Schmitt's authorized representative issues a written or electronic confirmation of acceptance (acknowledgment) of the Purchase Order.

3. PRICE AND PAYMENT. Unless expressly stated otherwise in writing by Schmitt, the purchase price excludes all charges and expenses connected to carriage of the Goods to Buyer, and all taxes and customs duties of any kind that either party is required to pay with respect to the sale of Goods and Services covered by this Contract, but includes packing costs. Buyer shall pay Schmitt in accordance with Schmitt's proposal, quotation and/or order acknowledgment in U.S. funds within 30 days, conditioned on approved credit, after the date of issuance of Schmitt's invoice. Schmitt may issue its invoice for the purchase price for the Goods, upon shipment, and for Services, upon completion. Schmitt may be entitled to invoice for progress payments as delineated on the face of the proposal or order acknowledgement. If partial shipments are made, Schmitt may submit its invoice upon each shipment of the portion of the Purchase Price allocated to that shipment. If Buyer is not located in the United States, Buyer shall, upon written request by Schmitt, provide Schmitt with an acceptable letter of credit in the form requested by Schmitt. If Buyer does not pay Schmitt on the agreed dates of payment, Buyer shall pay interest to Schmitt on overdue amounts at a rate of 1% of the unpaid balance monthly. In addition to charging interest on the unpaid balance, Schmitt may cancel or reschedule delivery of Goods if Buyer is in default of payments or any material term of this Contract.

4. TITLE AND RISK OF LOSS. Delivery shall be FCA Schmitt's plant (free carrier, Incoterms 2000). Title and full risk of loss (including transportation delays and losses) passes to Buyer upon delivery, as defined in Incoterms 2000, regardless of whether title has passed to Buyer, transport is arranged or supervised by Schmitt, or start-up is carried out under the direction or supervision of Schmitt. Loss or destruction of the Goods or injury or damage to the Goods that occurs while the risk of such loss or damage is borne by Buyer does not relieve Buyer of its obligation to pay Schmitt for the Goods.

5. DELIVERY AND DELAYS. Schmitt shall make commercially reasonable efforts to meet quoted delivery dates, which are estimated based on conditions known at the time of quotation. Schmitt shall not be liable for any nonperformance, loss, damage, or delay due to war, acts of terrorism, riots, fire, flood, strikes or other labor difficulty, governmental actions, acts of God, acts of the Buyer or its customer, transportation delays, inability to obtain necessary labor or materials from usual sources, or other causes beyond the reasonable control of Schmitt. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended at least by the length of time lost due to such delay. Schmitt shall not be liable for any damages resulting from any delay in delivery. Any claim by Buyer for shortage or other errors in

shipment shall be made within ten (10) days after the date of delivery to Buyer.

6. LIMITED WARRANTY. Schmitt warrants that the Goods will be free from defect in material and workmanship for 365 days from the date of delivery to the Buyer. Schmitt warrants repairs and spare or replacement parts manufactured by Schmitt for 90 days from the date of delivery or through the expiration of the initial 365 day warranty period, if applicable, whichever is longer. Buyer shall report any claimed defect in writing to Schmitt immediately upon discovery and in any event, within the warranty period. Schmitt, at its sole option, will repair the Goods or furnish replacement equipment, or parts thereof, at the appropriate Schmitt service center nearest to Buyer. This warranty does not extend to installation of the Goods provided by third parties, and is void if the Goods have been repaired, altered or modified in any manner by persons other than Schmitt or Schmitt's designee without Schmitt's prior written approval. No Goods furnished by Schmitt shall be deemed to be defective by reason of normal wear and tear, or Buyer's failure to properly store, install, operate or maintain the Goods in accordance with good industry practices or specific recommendations or instructions of Schmitt. The repair or replacement of the Goods by Schmitt under this Section shall constitute Schmitt's sole obligation and Buyer's sole and exclusive remedy for all claims of defects. If that remedy is adjudicated to be insufficient, Schmitt shall refund Buyer's paid purchase price and have no other liability to Buyer under the Contract. All warranty repairs must be performed at an authorized Schmitt serviced center using recommended replacement spare parts. Under this limited warranty, the Buyer is responsible for obtaining Schmitt's advance authorization to return Goods and for the cost of shipping and any other charges incurred in sending the Goods to the authorized service center specified by Schmitt. If Schmitt determines that the subject problem with the Goods is not covered by this warranty, Buyer shall reimburse Schmitt for time and materials at Schmitt's standard commercial rates and Buyer shall pay the cost of returning the Goods to Buyer. Schmitt shall make any necessary repairs in a timely manner but accepts no added liability for the actual time taken for repair. **SCHMITT MAKES NO OTHER WARRANTY OF ANY KIND WITH RESPECT TO THE GOODS OR SERVICES. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY AGAINST INFRINGEMENT AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.**

7. CONFIDENTIALITY AND INTELLECTUAL PROPERTY. All technical and commercial information Schmitt disclosed to Buyer, excluding public domain information or property in Buyer's possession in tangible form before receiving such information from Schmitt (Confidential Information), is proprietary to Schmitt and disclosed to Buyer in confidence for the limited purpose of assisting Buyer in the evaluation and use of the Goods (Purpose). Unless otherwise authorized in writing by an authorized representative of Schmitt, Buyer shall not disclose Confidential Information, directly or indirectly, to any other person or use such Confidential Information, except for the Purpose. All Confidential Information shall be returned to Schmitt on demand, and, in any event, when no longer needed by Buyer in connection with the Purpose. Sale of the Goods to Buyer does not convey a license, implied or otherwise, under any patent, copyright, trademarks or trade secret in which Schmitt has an interest, nor does it convey rights to any descriptive data, including but not limited to Schmitt's drawings, schematics, software, secrets, processes or tooling.

8. LIMITATION OF LIABILITY. Schmitt shall in no event be liable for any consequential, incidental, indirect, special or punitive



damages arising out of the Contract, or out of any breach of any of its obligations hereunder, or out of any defect in, or failure of, or malfunction of the Goods or Services, including but not limited to, claims based upon loss of use, lost savings, lost profits or revenue, interest, lost goodwill, work stoppage, impairment of other equipment, environmental damage, loss by reasons of shutdown or non-operation, increased expenses of operations, cost of purchase of replacement equipment or claims of Buyer or customer of Buyer or any other party for service interruption whether or not such loss or damage is based on contract, tort (including negligence and strict liability) or otherwise and whether or not Schmitt was advised of the possibility of such damage. Schmitt's maximum liability under or in any way relating to this Contract shall not exceed the Purchase Order price for the Goods or Services upon which such liability is based. All such liability shall terminate one year from the date of delivery of the Goods, if not sooner terminated.

9. APPLICABLE LAW. The Contract shall be governed by the laws of the State of Oregon, USA, exclusive of its conflicts of laws principles. Any disputes arising out of this Contract that cannot be informally resolved shall be adjudicated exclusively in Multnomah County, Oregon, USA, in any court of competent jurisdiction. This Contract is expressly conditioned on the exclusion of the application of the United Nations Convention on the International Sale of Goods.

10. CANCELLATION. Buyer may cancel this contract at any time prior to the scheduled shipping date as specified on the purchase order or purchase order acknowledgment. For Schmitt's standard commercial products, Buyer shall pay Schmitt a restocking charge equal to ten percent (10%) of the value of the purchase order. For Schmitt's customized products based, in whole or in part, on specifications or drawings provided by Buyer, Buyer shall pay Schmitt a restocking charge as provided in the purchase order or purchase order acknowledgment or as agreed to between the parties. Buyer's obligations under Sections 3, 7 and 9 shall survive termination of this Contract.

11. SOFTWARE LICENSE. If Schmitt provides restricted software with the Goods, that restricted software is proprietary to Schmitt or Schmitt's suppliers. Schmitt grants Buyer a non-exclusive, perpetual license to use the software only on and in conjunction with the Goods. Buyer agrees the title remains with Schmitt (and its suppliers, if any) and Buyer shall not disassemble, decode or translate, or copy or modify the software except for archival or back-up purposes as necessary for use on and with the Goods. Buyer will maintain all proprietary marks on software provided by Schmitt. Buyer may transfer this license if transferring the Goods also and if the transferee agrees to comply with the restrictions of this license. Upon such transfer, Buyer's license terminates and Buyer shall destroy all copies of the software and related documentation in Buyer's possession.

12. ASSIGNMENT. Neither party shall assign its rights or delegate its duties under this sale agreement without the prior written consent of the other, such consent not to be unreasonably withheld.

13. TRADEMARKS. Buyer agrees that it will not use any name or trademark of Schmitt Industries, Inc. or its subsidiaries, without prior express written permission.

14. U.S. TAXES. The prices stated are exclusive of any federal, state, municipal, or other governmental tax that may be imposed upon the production, storage, sale, transportation or use of the Goods and Services described herein. Buyer shall present Schmitt with a valid and correct tax exemption or direct payment certificate applicable to Goods and Services purchased and the ship-to destination at the time of order placement as applicable. The tax exempt certificate and the company ship-to address must correspond. If a valid and correct tax exempt or direct payment certificate is not provided at the time of order placement, Buyer shall be responsible for payment to sales and/or use tax as charge on invoice when shipping to the following states: AL, AZ, CA, CO, FL, GA, IA, IL, IN, KY, LA, MA, MD, MI, MN, MO, NC, NJ, NY, OH, PA, SC, SD, TN, TX, UT, VA, WA and WI. Buyer shall be responsible to remit applicable sales and/or use tax directly to the state not listed herein, as applicable.