

Additive Solutions - Terms and Conditions of Sale

1. **Scope.** Seller means the Lincoln Electric entity identified in the Seller Documents (defined below), and Buyer means the industrial company purchasing Goods and/or Services from Seller. Any Seller proposal, acknowledgment or invoice and all documents incorporated by specific reference herein or therein by Seller ("Seller Documents"), and these terms and conditions of sale ("Terms"), constitute the complete terms and conditions governing the sale of Goods and/or Services ("Agreement"). ANY AND ALL ADDITIONAL OR DIFFERENT TERMS IN THE BUYER'S REQUEST FOR PROPOSAL, PURCHASE ORDER, BUSINESS FORMS, WEBSITE OR BY ANY OTHER DOCUMENTATION ISSUED BY BUYER ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO AND REJECTION OF SUCH TERMS IS HEREBY GIVEN. No website usage agreement or any other click through agreement on a web-site will have any binding effect on Seller whether or not Seller clicks on an "ok," "I accept," or similar acknowledgment. Issuance of a purchase order, or Buyer's acceptance of delivery of the Goods and/or Services will manifest Buyer's assent to this Agreement. Additional or different terms applicable to a particular sale may be specified in the body of a Seller Document or agreed to in a written contract signed by both parties. In the event of a conflict, the following order of precedence will apply: (a) written contract signed by both parties; (b) Seller Documents; and (c) these Terms.
2. **Definitions:** Unless the context otherwise requires: (a) "Goods" as used herein means goods sold under this Agreement, as identified in the Seller Documents; (b) "Services" as used herein means all manufacturing, labor, supervisory, technical and engineering, installation, commissioning, programming, support, repair, training, consulting or other services provided by Seller under the Agreement.
3. **Prices.** (a) Proposals for Goods and/or Services expire thirty (30) days from the date thereof. Unless otherwise indicated in the Seller's proposal, prices are in US Dollars. (b) Prices for Services are based on normal business hours. Seller reserves the right to charge Buyer overtime rates for Services rendered outside normal business hours, holiday pay for working on holidays and travel time. Prices are subject to change without notice. (c) Seller's price does not include any federal, state or local property, license, privilege, sales, value-added, use, excise, gross receipts, or other like taxes which may now or hereafter be applicable. Buyer agrees to pay or reimburse any such taxes which Seller or its suppliers are required to pay or collect. If Buyer is exempt from the payment of any tax or holds a direct payment permit at the time of the placement of the order, Buyer shall provide Seller a copy, acceptable to the relevant governmental authorities of any such certificate or permit. (d) Seller's price excludes customs, duties and other similar fees which may not or hereafter be applicable. Buyer agrees to pay or reimburse any such customs, duties and other fees which Seller or its suppliers are required to pay or collect. Seller neither represents nor guarantees that any of the Goods qualify as originating under the North American Free Trade Agreement, Buy America, General System of Preferences or other relevant, existing or future trade agreements or tariff preference programs. Any duties, fees, taxes, other charges or exactions on the Goods payable to any government or other entity are the sole responsibility of the Buyer. Seller's price includes standard packaging for shipment by truck, unless expressly stated otherwise in the Seller Documents. Any change after the proposal date in such rates, or additional packaging required by Buyer or required to transport the Goods via another mode of transportation, shall be paid to Seller in addition to the price quoted in the proposal. (e) Notwithstanding anything to the contrary in this Agreement or any written contract signed by the Parties, Seller may in its sole discretion add a surcharge to the price for the sale of Goods in the event of any addition or change in any applicable law, regulation, international trade agreement and/or tariff(s) materially that impacts the costs to Seller of any raw materials. Seller may add such a surcharge to the price for the Goods by notifying Buyer in writing.
4. **Payment.** a) Payment of one-hundred percent (100%) shall be due within 30 days of shipment of the Goods or completion of the Services and issuance of an invoice by Seller for the same. (b) Buyer shall pay, in addition to the overdue payment, a late charge equal to the lesser of 1 1/2% per month or any part thereof or the highest applicable rate allowed by law on all such overdue amounts plus Seller's attorneys' fees and court costs incurred in connection with collection.
5. **Specifications & Changes.** (a) Prior to the issuance of a purchase order, Buyer shall provide Seller with sufficient specifications to make the Goods and provide the Services, including without limitation, drawings, CAD models and material properties ("**Specifications**"). All Specifications shall be set forth in writing. Any specifications provided by Buyer to Seller after Seller sends its proposal to Buyer shall be considered a change order pursuant to section (b) of this paragraph. (b) Every change order shall reflect modifications to the Agreement, the delivery schedule and the price. A change order is not binding on either party unless mutually agreed to in writing. Seller has no obligation to perform any changes until the change order is mutually agreed in writing. (c) Seller may make such changes in the Goods and/or Services as it deems necessary, in its sole discretion, to conform the Goods and/or Services to the applicable Specifications. If Buyer objects to any such changes, Seller shall be relieved of its obligation to conform to the applicable Specifications to the extent that conformance may be affected by such objection.

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6. **Shipment & Delivery.** (a) Goods are shipped on a domestic basis: **FOB, point of shipment** (UCC) and on an international basis: **FCA: Seller's facility** (Incoterms 2010) unless otherwise stated in the Seller Documents. (b) Buyer shall be responsible for any and all demurrage, detention, customs broker and freight forwarder fees, warehouse and terminal charges, insurance, inspection, storage, special notifications, and special equipment/handling charges shall be at the Buyer's additional expense unless otherwise agreed in writing by Seller. (c) Shipping and delivery dates are estimates only and are contingent upon Buyer's timely approvals and delivery by Buyer of any documentation required for Seller's performance hereunder. Seller shall not be liable for any penalties or damages of any kind if anticipated shipment dates are not met. Delivery times shall be automatically extended as needed to resolve any technical matters between the parties with respect to the delivery, installation or use of the Goods. (d) If the scheduled delivery of Goods and/or Services is delayed by Buyer, Seller may store in its facility or move the Goods to storage, at Buyer's sole cost, expense and risk, whereupon the Goods are deemed to be delivered and accepted by Buyer and all payments shall be accelerated and come immediately due and payable on the date Seller is prepared to make delivery – notwithstanding any terms to the contrary stated in Seller Documents. (e) Seller may make partial deliveries.
7. **Title & Risk of Loss.** Title and risk of loss for the Goods shall transfer to Buyer upon delivery of the Goods to the first carrier for shipment. Seller retains a purchase money security interest on and in such Goods until Seller receives payment in full, and Buyer will cooperate with Seller to perfect any such interest as deemed reasonably necessary by Seller.
8. **Warranties.** (a) Seller represents and warrants to Buyer that it will use commercially reasonable efforts to ensure the Goods substantially conform to the Buyer's Specifications. (b) Each party represents and warrants to the other that: (i) this Agreement has been validly executed and delivered and constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms; (ii) it has the requisite capacity and authority to enter into this Agreement; (iii) no consent of any other person or entity is necessary for it to enter into and fully perform this Agreement; and (iv) all information, invoices and documents provided to the other party are and will be true, complete and accurate. (c) **No Other Warranties.** Neither party is relying on any warranties, representations, assurances or inducements that are not expressly set forth herein. **THE GOODS AND SERVICES ARE SOLD AND PROVIDED "AS IS" AND CARRY NO WARRANTY OF ANY KIND OTHER THAN THE WARRANTY SET FORTH IN THIS PARAGRAPH. ANY AND ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXPRESSLY DISCLAIMED.** (d) It is Buyer's sole responsibility to determine if a Good is fit for a particular purpose and suitable for Buyer's method, application or process. Buyer fully indemnifies Seller for any injury, harm or loss that occurs at all related to Buyer's use, misuse or application of any Goods purchased from Seller by Buyer, and Seller holds no responsibility and bears no liability for the results or consequences of the use, misuse or application of any Goods and/or Services purchased from Seller by Buyer. On occasion, purchasers may ask Seller for information or advice about their use of the Goods and/or Services. Seller's employees respond to inquiries to the best of their ability based on information provided to them by the customers and the knowledge they may have concerning the application. Seller's employees, however, are not in a position to verify the information provided or to evaluate the engineering requirements for the particular weldment or application. Accordingly, Seller does not warrant, guarantee or assume any liability with respect to such information or advice. Moreover, the provision of such information or advice does not create, expand, or alter any warranty on our Goods and/or Services. **ANY EXPRESS OR IMPLIED WARRANTY THAT MIGHT ARISE FROM THE INFORMATION OR ADVICE PROVIDED BY SELLER, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, IS SPECIFICALLY DISCLAIMED.**
9. **Indemnification.** If Buyer supplies a purchase order to Seller for Goods with Buyer's Specifications for the same, then Buyer represents that Buyer has ownership rights to, and/or has a license to have such Goods made for Buyer, and Buyer agrees to defend, indemnify and hold harmless Seller, its parent company, agents and/or affiliates from and against any claims, suits, proceedings (whether in court or out of court) of all types whatsoever against Seller, and shall indemnify Seller, its parent company, directors, officers, employees, shareholders, affiliates and agents for all costs, damages, judgments, settlements and compromises (including incurred costs and attorneys' fees) for the infringement or claimed infringement of any patent, trademark, service mark, trade secret, copyright, moral rights or other claims of violation of intellectual property rights anywhere in the world resulting from: (1) Buyer's request that Seller reproduce, manufacture, modify, utilize or incorporate Buyer's product idea and/or Specifications into Goods or Services; or (2) any misrepresentation by Buyer that it had ownership rights and/or a license to have Goods built for it or have Services provided to it when such representation was not accurate and/or resulted in claims against Seller based upon Seller's completion of a project for Buyer under such misrepresentation. Buyer shall pay all costs, damages, judgments, settlements and compromises (including incurred costs and attorneys' fees) arising out of or related to such claims, suits, proceedings (whether in court or out of court) against Seller, its parent company, directors, officers, employees,

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shareholders, affiliates and agents.

- 10. Limitation of Liability.** (A) IN NO EVENT SHALL SELLER, ITS PARENT, SUBSIDIARIES AND AFFILIATES BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE GOODS AND/OR SERVICES OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, DELAYS, AND CLAIMS OF CUSTOMERS OF THE BUYER OR OTHER THIRD PARTIES FOR ANY DAMAGES. SELLER'S LIABILITY FOR ANY CLAIM WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR FROM THE DESIGN, MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT, INSTALLATION, TECHNICAL DIRECTION OF INSTALLATION, INSPECTION, OPERATION OR USE OF ANY GOODS COVERED BY OR FURNISHED UNDER THIS AGREEMENT, OR FROM ANY SERVICES RENDERED IN CONNECTION THEREWITH, SHALL IN NO CASE EXCEED THE PURCHASE PRICE ALLOCABLE TO THE GOODS AND/OR SERVICES OR PART THEREOF WHICH GIVES RISE TO THE CLAIM. (B) ALL CAUSES OF ACTION AGAINST SELLER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF SHALL EXPIRE UNLESS BROUGHT WITHIN ONE YEAR OF THE TIME OF ACCRUAL THEREOF. (C) IN NO EVENT, REGARDLESS OF CAUSE, SHALL SELLER BE LIABLE FOR THE ACTS OR OMISSIONS OF BUYER OR THIRD PARTIES.
- 11. Inventions. (a) Buyer Intellectual Property Rights.** Buyer shall retain all right, title and interest in its background intellectual property rights. Buyer grants to Seller a royalty free, non-exclusive right and license to use its background intellectual property rights for the purpose of performing Seller's obligations under this Agreement. (b) **Seller's Intellectual Property Rights.** Seller shall retain all right, title and interest in its background intellectual property rights and any improvements, enhancement or modifications to the Goods conceived by Seller in the course of providing the Services. All materials, and any inventions (whether or not patentable), works of authorship, trade secrets, ideas, concepts, trade names and trade or service marks created or prepared by Seller under this Agreement, together with any and all intellectual property rights therein (collectively "Inventions"), shall belong exclusively to Seller. Buyer hereby assigns the worldwide right, title and interest in and to the Inventions to Seller. Seller shall have the right, at its option and expense, to seek protection of the Inventions by obtaining patents, copyright registrations, and filings related to proprietary or intellectual property rights. Buyer agrees to execute, and to cause its employees and/or agents to execute, such documents, applications, and conveyances and to supply information as Seller shall request, in order to permit Seller (at Seller's expense) to protect, perfect, register, record and maintain its rights in the Inventions and effective ownership of them throughout the world. These obligations survive the expiration or termination of this Agreement. Buyer shall not, without Seller's prior written consent, copy or disclose such Inventions to a third party. Such Inventions shall be used by Buyer solely for the operation or maintenance of the Goods and not for any other purpose, including the duplication thereof in whole or in part.
- 12. Confidentiality.** "Confidential Information" means all information, know-how, trade secrets or other material disclosed by Buyer to Seller and Seller to Buyer. Both Buyer and Seller shall treat each other's Confidential Information as confidential; shall not use such Confidential Information except in connection with the Agreement; shall not disclose such Confidential Information to any third party who has not executed an agreement to maintain the confidentiality of the Confidential Information with restrictions at least as restrictive as those set forth herein; and shall not reverse-engineer Seller's Goods or Services. All technical, business, sales, distribution channel, financial, marketing, pricing, planning, competitor information and the lists of customers who have purchased Goods from Seller are considered Seller's Confidential Information. Confidential Information does not include information that is: (i) generally known and available in the public domain; (ii) was known to recipient prior to the date of disclosure; (iii) was received from a third-party without any obligation of confidentiality; or (iv) was independently developed without reliance on Confidential Information. Given the nature of the Confidential Information and the likely consequences of its unauthorized use or disclosure, monetary damages would not be an adequate remedy and both Seller and Buyer reserve the right to seek and obtain injunctive relief, in addition to any other remedy that may be available, in any proper forum.
- 13. Cancellation.** (a) All sales are final. If this Agreement is cancelled or terminated for convenience by Buyer, Buyer shall pay Seller 100% of the sale price under the Agreement. Seller may attempt to mitigate the monetary impact of cancellation or termination, at its discretion. Upon receipt of payment in full, Seller will deliver Goods and/or Services to Buyer or scrap the same at Buyer's direction. (b) Seller may terminate this Agreement for convenience. If Seller terminates for convenience, Buyer will be entitled to a refund of the amount paid for the undelivered Goods under this Agreement.
- 14. Termination for Default.** (a) Either party may terminate this Agreement for cause if the other party is in material breach

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of this Agreement and such breach is not cured within 30 days after the non-breaching party issues written notice to the breaching party. (b) **Effect of termination.** If this Agreement is terminated due to Buyer's breach, Buyer shall pay Seller 100% of the sale price under the Agreement. If this Agreement is terminated due to Seller's breach, Buyer shall pay Seller the sale price of the Goods and/or Services based on percentage of work completed as of the effective date of termination, plus costs incurred from vendors as a result of early termination. Seller may attempt to mitigate the monetary impact of cancellation or termination, at its discretion. Upon receipt of payment, Seller will deliver Goods and/or Services to Buyer or scrap the same at Buyer's direction.

15. **Insurance.** (a) Buyer shall maintain general liability insurance including coverage in an amount no less than two million (U.S. \$2,000,000) dollars per claim for property damage, bodily injury, and contractual liability. Until Seller is in receipt of full payment by Buyer for the Goods and/or Services, Buyer shall maintain insurance in an amount that is sufficient to cover the contract price of the Goods and/or Services. Further, Buyer shall maintain insurance in an amount that is sufficient to cover the cost of any Buyer's property in Seller's possession for the purposes of providing Goods and/or Services until such time that Buyer's property is returned to Buyer. Unless otherwise agreed to in writing by Buyer and Seller, Seller shall not maintain insurance on Buyer's property and will not assume any liability for destruction or loss of the same. (b) Nuclear Insurance – Indemnity. For applications in nuclear projects, Buyer and its customer shall have and maintain complete insurance protection against liability and property damage resulting from a nuclear incident to and shall indemnify Seller, its parent company, directors, officers, employees, shareholders, affiliates, agents, subcontractors, suppliers and vendors against all claims resulting from a nuclear incident.
16. **Force Majeure.** Seller shall not be in default for failure to perform and shall not be liable for loss, damage, detention or delay when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, terrorism, sabotage, power, explosions, epidemics, civil disturbances, strike, labor difficulties, acts or omissions of any governmental authority, compliance with government laws or regulations, tariffs, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, raw materials, or manufacturing facilities from usual sources, changes in market conditions, equipment failure, or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes. Upon the occurrence of any event or circumstance referenced above, Seller shall have the right to allocate Goods and/or Services among its customers in its sole discretion. This Section supplements, and does not replace, any remedies available to Seller under applicable law.
17. **Assignment.** Buyer cannot assign this Agreement without Seller's prior written consent. Seller can assign this Agreement.
18. **Entire Agreement.** The Agreement constitutes the entire agreement between Seller and Buyer with respect to the Goods and/or Services covered by the Agreement, and supersedes any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof will be of any effect unless mutually agreed to in writing.
19. **Waiver.** In the event of any default by Buyer, Seller may decline to ship Goods or to provide Services. If Seller elects to continue shipping or otherwise fails to insist upon strict compliance with the Agreement, Seller's actions will not constitute a waiver of Buyer's default or any other existing or future default or affect Seller's legal remedies.
20. **Severability.** If any provision of this Agreement is held to be unlawful or unenforceable, the remaining provisions shall remain in effect.
21. **Survival.** Any provisions of this Agreement which, by their nature, extend beyond the completion, termination or expiration of any sale of Goods and/or Services, will remain in effect until fulfilled.
22. **Compliance with Laws.** Buyer will comply with all federal, state, local and foreign rules, regulations, ordinances and laws applicable to Buyer's obligations under this Agreement and its operations or use of the Goods and/or Services, including but not limited to those regarding safety, the environment, data protection, data privacy, conflict minerals, human trafficking/slavery, export/import, labor and anti-corruption. Nothing contained herein shall be construed as imposing responsibility or liability upon Seller for obtaining any permits, licenses or approvals from any agency required in connection with the supply, erection or operation of the Goods and/or Services. In no event shall Seller be responsible for liability arising out of use of the Goods in association with other equipment of Buyer, the alteration of the Goods by any party other than Seller, or the violation of any laws relating to or caused by Buyer's design, location, operation, or maintenance of the Goods. Buyer acknowledges that the Goods and Services, if any, which are purchased or received under this Agreement may be subject to the export controls of the U.S. Export Administration Regulation, the U.S. Department of Treasury Office of Foreign Assets Control, the U.S. Department of State and other U.S. agencies, as well as the export control regulations of the European Union, the United Nations Security Council, and other foreign governments ("Export Control and Economic Sanctions Laws"). Buyer agrees that any export, resale, or re-export of Seller's Goods shall be in compliance with all applicable Export Control and Economic Sanctions Laws, Unless licensed to

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do so, Buyer agrees that it will not: (i) export, resell, re-export or transfer the Goods and/or Services for end-uses that are prohibited by Export Control and Economic Sanctions Laws, including, but not limited to: maritime nuclear propulsion; nuclear, chemical and biological weapons; rocket, missile and unmanned air vehicle systems; and nuclear activities not in compliance with International Atomic Energy Agency (IAEA) safeguards; (ii) export, resell, re-export or transfer any Goods and/or Services to a customer that an entity or person that is listed, blocked or subject to sanctions under applicable Export Control and Economic Sanctions Laws, including entities that are owned 50% or more, directly or indirectly, individually or in the aggregate, by an individual or entity that is listed, blocked or subject to sanctions; or (iii) export, resell, re-export, transfer, or conduct transactions involving the Goods and Services with or to entities or individuals in countries or regions subject to comprehensive sanctions, including: Crimea, Cuba, Iran, North Korea, Syria, and Sudan. Further, none of the underlying information, software, or technology of the Goods and/or Services may be transferred or otherwise exported or re-exported in violation of Export Control and Economic Sanctions Laws. Any diversion contrary to U.S. law or other applicable law is prohibited. By purchasing Goods from Seller, Buyer represents and warrants that Buyer is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Buyer agrees to assume sole responsibility for obtaining licenses to export or re-export as may be required, and further represents and warrants that Buyer shall: (i) cooperate fully with Seller in any official or unofficial audit or inspection that relates to Export Control and Economic Sanctions Laws; and (ii) not export, re-export, divert, transfer, or disclose, directly or indirectly, any Goods and/or Services sold hereunder or any related technical information, document, or material or direct products thereof to any country, entity, person or end-user so restricted by Export Control and Economic Sanctions Laws, as modified by time to time. Seller and Buyer are committed to fair, honest and ethical business practices. Buyer acknowledges that Seller has adopted a Code of Corporate Conduct and Ethics (a copy of which is available on Seller's website at www.lincolnelectric.com) and Buyer agrees to conduct itself in its dealings with or on behalf of Seller in a manner that is consistent with and facilitates compliance with Seller's Code.

- 23. Disputes and Governing Law.** In the event of any controversy, claim or dispute arising out of or relating to this Agreement (a "Dispute"), Seller and Buyer shall seek to resolve the matter amicably through diligent, good faith, mutual discussions to be initiated as promptly as possible after a Dispute arises. If the Dispute cannot be resolved through mutual discussions as set forth above, either party may commence an action to resolve the Dispute in the Federal or State courts of Ohio. The parties shall submit to personal jurisdiction and venue in the State of Ohio, County of Cuyahoga. This Agreement and any transactions arising therefrom shall be governed and construed under the laws of the State of Ohio, as applied to contracts entered into and performed in that State, specifically excluding any conflict or choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable to this Agreement or any transactions created thereby or construed therewith. In the event of any litigation, arbitration or mediation arising from a breach of any provision of the Agreement, the prevailing party is entitled, in addition to the relief granted, to a reasonable sum for their attorneys' fees incurred during the Dispute, provided that if each party prevails in part, such fees will be allocated in the manner as the court, arbitrator or mediator determines to be equitable in view of the relative merits and amounts of the parties' claims.