

# General terms & conditions

## 1. Applicability

**1.1.** These terms and conditions of sale (the “**Terms**”) are the only terms which govern the sale of the products (the “**Products**”) by TAGARNO USA, Inc. (“**TAGARNO**”) to the buyer named on the offer and/or Sales Order Confirmation (as defined below) (the “**Buyer**”). TAGARNO and Buyer together are hereinafter sometimes referred to as “**Parties**”, and each individually a “**Party**”. Notwithstanding anything herein to the contrary, if a written contract signed by both Parties is in existence covering the sale of the Products covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

**1.2.** The accompanying sales order confirmation (the “**Sales Order Confirmation**”) and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral with respect to the subject matter hereof. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms, all of which are hereby rejected. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

## 2. Delivery of Products

**2.1.** Unless otherwise agreed to in writing between the Parties, the Products will be delivered within a reasonable time after the receipt of Buyer’s purchase order, subject to availability of finished Products. TAGARNO shall not be liable for any delays, loss or damage in transit.

**2.2.** Notwithstanding Section 2.1 hereof, if under this Agreement Buyer submits a blanket purchase orders for Products to TAGARNO, Buyer shall issue any releases under such purchase order, with each such release including a definite quantity of Products, no later than twelve (12) weeks before Buyer’s preferred date of delivery. If Buyer issues any such release less than twelve (12) weeks before Buyer’s preferred date of delivery, TAGARNO will use reasonable efforts to meet such preferred date of delivery and quantity of Products but TAGARNO shall not be liable for any delays or delivering less than the quantity specified in such release.

**2.3.** Unless otherwise agreed in writing by the Parties, TAGARNO shall deliver the Products at TAGARNO's designated location (the "**Delivery Point**") using TAGARNO's standard methods for packaging and shipping such Products. Buyer shall take delivery of the Products within five (5) days of TAGARNO's Notice (as defined below) that the Products have been delivered to the Delivery Point. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Products at the Delivery Point.

**2.4.** TAGARNO may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer.

**2.5.** Delivery is deemed to have occurred upon Notice by TAGARNO to Buyer that Products are ready for pick-up. If for any reason Buyer fails to accept delivery of any of the Products on the date fixed pursuant to TAGARNO's Notice that the Products have been delivered at the Delivery Point, or if TAGARNO is unable to deliver the Products at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Products shall pass to Buyer; (ii) the Products shall be deemed to have been delivered; and (iii) TAGARNO, at its option, may store the Products until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance)..

### **3. Non-Delivery**

**3.1.** The quantity of any installment of Products as recorded by TAGARNO on dispatch from TAGARNO's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

**3.2.** TAGARNO shall not be liable for any non-delivery of Products (even if caused by TAGARNO's negligence) unless Buyer gives Notice to TAGARNO of the non-delivery within five (5) days of the date when the Products would in the ordinary course of events have been received.

**3.3.** Any liability of TAGARNO for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or adjusting the invoice respecting such Products to reflect the actual quantity delivered.

#### 4. Buyer's Acts or Omissions

**4.1.** If TAGARNO's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants or employees, TAGARNO shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

#### 5. Inspection and Rejection of Nonconforming Products; Returns of Products

**5.1.** Buyer shall inspect the Products within three (3) days of receipt (the "**Inspection Period**"). Buyer will be deemed to have accepted the Products unless it notifies TAGARNO in writing of any Nonconforming Products during the Inspection Period and furnishes such written evidence or other documentation as required by TAGARNO. "**Nonconforming Products**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

**5.2.** If Buyer timely notifies TAGARNO of any Nonconforming Products, TAGARNO shall, in its sole discretion, (i) replace such Nonconforming Products with conforming Products, or (ii) credit or refund the Price for such Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Products to TAGARNO's facility located at the Delivery Point. If TAGARNO exercises its option to replace Nonconforming Products, TAGARNO shall, after receiving Buyer's shipment of Nonconforming Products, ship to Buyer, at Buyer's expense and risk of loss, the replaced Products to the Delivery Point.

**5.3.** Buyer acknowledges and agrees that the remedies set forth in Section 5.2 are Buyer's exclusive remedies for the delivery of Nonconforming Products. Except as provided under Section 5.2, all sales of Products to Buyer are made on a one-way basis and Buyer has no right to return Products purchased under this Agreement to TAGARNO.

## 6. Price

**6.1.** Buyer shall purchase the Products from TAGARNO at the prices (the "**Prices**") set forth in TAGARNO's price list in force as of the date TAGARNO accepts Buyer's purchase order. If the Prices should be increased by TAGARNO before delivery of the Products to a carrier for shipment to Buyer, then these Terms shall be construed as if the increased Prices were originally inserted herein, and Buyer shall be billed by TAGARNO on the basis of such increased Prices.

**6.2.** Buyer shall pay for shipping charges and insurance costs in accordance with the commercial terms selected by the Parties under Section 7. All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, tariffs, and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer under this Agreement. Distributor is responsible for all charges, costs, and taxes; provided, that, Distributor is not responsible for any taxes imposed on, or regarding, TAGARNO's income, revenues, gross receipts, Personnel or real or personal property, or other assets.

## 7. Payment Terms

**7.1.** Buyer shall pay all invoiced amounts due to TAGARNO on receipt of TAGARNO's invoice and in accordance with any terms or schedule (the "**Payment Terms**") set forth in the accompanying Sales Order Confirmation. Buyer shall make all payments hereunder in US dollars by wire transfer, check or as otherwise specified in TAGARNO's Sales Order Confirmation and related invoice sent to Buyer.

**7.2.** Buyer shall pay interest on all late payments at the higher of the rate of 1.50% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse TAGARNO for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which TAGARNO does not waive by the exercise of any rights hereunder), TAGARNO shall be entitled to suspend, or require pre-payment in cash prior to, the delivery of any Products if Buyer fails to pay any amounts when due hereunder and such failure continues for 5 days following Notice thereof.

**7.3.** Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or Dispute (as defined below) with TAGARNO, whether relating to TAGARNO's breach, bankruptcy or otherwise.

## 8. Limited Warranty

**8.1.** TAGARNO warrants to Buyer that for a period of twenty-four (24) months from the date of receipt of TAGARNO's invoice for the Products ("**Warranty Period**"), that such Products will conform to the specifications in effect as of the date of delivery and will be free from material defects in material and workmanship.

**8.2. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 8.1, TAGARNO MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; OR (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

**8.3.** Products manufactured by a third party (a "**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in [Section 8.1](#). For the avoidance of doubt, **TAGARNO MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

**8.4.** TAGARNO shall not be liable for a breach of the warranties set forth in [Section 9.1](#) unless: (i) the Products were packed, shipped, handled, delivered and transported with reasonable care; (ii) Buyer gives Notice of the defective Products, reasonably described, to TAGARNO within seven (7) days of the time when Buyer discovers or ought to have discovered the defect; (iii) if applicable, TAGARNO is given a reasonable opportunity after receiving the Notice of breach of the warranty set forth in [Section 8.1](#) to examine such Products and Buyer (if requested to do so by Products) returns such Products to the Delivery Point at TAGARNO's cost for the examination to take place there; and (iv) TAGARNO reasonably verifies Buyer's claim that the Products are defective.

**8.5.** TAGARNO shall not be liable for a breach of the warranty set forth in [Section 8.1](#) if: (i) Buyer makes any further use of such Products after giving such Notice; (ii) the defect arises because Buyer failed to follow TAGARNO's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products, including but not limited to any software

that is part of or used in connection with the Products; or (iii) Buyer alters or repairs such Products without the prior written consent of TAGARNO.

**8.6.** Subject to [Section 8.4](#) and [Section 8.5](#) above, with respect to any such Products during the warranty period, TAGARNO shall, in its sole discretion, either: (i) repair or replace such Products (or the defective part) or (ii) credit or refund the price of such Products at the pro rata contract rate provided that, if TAGARNO so requests, Buyer shall, at TAGARNO's expense, return such Products to TAGARNO.

## **9. Limitation of Liability**

**9.1 IN NO EVENT SHALL TAGARNO BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT TAGARNO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

**9.2 IN NO EVENT SHALL TAGARNO'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO TAGARNO FOR THE GOODS SOLD HEREUNDER.**

**9.3.** The limitation of liability set forth in Section 9.2 shall not apply to liability resulting from TAGARNO's gross negligence or willful misconduct

**9.4** TAGARNO is only liable for personal injury or property damage caused by the products sold if it can be established that the injury or damage was caused by faults or negligence for which TAGARNO is liable or committed by others for whom TAGARNO is responsible. TAGARNO shall in no event be liable for any indirect or consequential losses arising from or related to personal injury or property damage caused by the products. TAGARNO's aggregate liability to the Customer for personal injury or property damage caused by the products shall to the extent permitted by Danish law under no circumstances exceed TAGARNO's current insurance sum corresponding to an amount of DKK 10,000,000

## 10. Compliance with Law

**10.1.** Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Products under this Agreement or any resale of the Products by Buyer. Buyer assumes all responsibility for shipments of Products requiring any government import clearance. TAGARNO may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Products.

## 11. Termination

**11.1.** In addition to any remedies that may be provided under these Terms, TAGARNO may terminate this Agreement with immediate effect upon Notice (as defined below) to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

## 12. Waiver

**12.1.** No waiver by TAGARNO of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by TAGARNO. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement 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.

## 13. Confidential Information

**13.1.** All non-public, confidential or proprietary information of TAGARNO, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, software programs, manufacturing data, business operations, and information pertaining to customers, pricing and marketing, including but not limited to customer lists, pricing, discounts or rebates (collectively, "**Confidential Information**") disclosed by TAGARNO to Buyer, 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 this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by TAGARNO in writing. Upon TAGARNO’s request, Buyer shall promptly return all documents and other materials received from TAGARNO. TAGARNO 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 Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

## **14. Force Majeure**

**14.1.** TAGARNO shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of TAGARNO 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 or regional emergency; revolution; insurrection; epidemic, or pandemic, including, without limitation, the COVID-19 pandemic; 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 quality or quantity or suitable materials; or materials or telecommunication breakdown or power outage (all such circumstances collectively, the “**Force Majeure Events**”). TAGARNO may terminate this Agreement with immediate effect in case of any Force Majeure Event, which continues for five (5) days or more.

## **15. Assignment**

**15.1.** Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of TAGARNO. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

## **16. Relationship of the Parties**

**16.1.** The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other



form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever..

## **17. No Third-Party Beneficiaries**

**17.1.** This Agreement 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.

## **18. Governing Law**

**18.1.** All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule (whether of the State of Georgia or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Georgia. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to this Agreement.

## **19. Arbitration**

**19.1.** Any dispute, controversy or claim, arising out of or relating to this Agreement, or the breach hereof (a "**Dispute**"), shall be submitted to and resolved by the American Arbitration Association ("**AAA**"), with such arbitration to be held in Atlanta, Georgia in accordance with AAA's Commercial Arbitration Rules then in effect. Each party hereby irrevocably agrees that service of process, summons, notices as other communications related to the arbitration procedure shall be deemed served and accepted by the other party five (5) working days after having been mailed by first class registered mail by first class registered mail, return receipt requested, postage prepaid, to the other party or if actually received by the other party. The arbitration shall be conducted by one arbitrator, as selected by the AAA. Any award or decision rendered in such arbitration shall be final and binding on both parties, and judgment may be entered thereon in any court of competent jurisdiction if necessary. Except as may be provided to the contrary herein, each party hereto shall pay any and all expenses incurred by such party in connection with such arbitration proceeding, unless otherwise determined by the arbitrator.

**19.2.** Notwithstanding subsection 1 of this Section to the contrary, any Party may seek injunctive relief against the other Party at any court of proper jurisdiction with respect to any and all preliminary injunctive or restraining procedures pertaining to this Agreement or the breach thereof. Any provisions to the contrary herein notwithstanding, the law applicable in the jurisdiction of such court shall apply with respect, but limited to, all such preliminary injunctive or restraining procedures.

## **20. Submission to Jurisdiction for Enforcement**

**20.1.** For purposes of an action to confirm or enforce any award entered in the arbitration, the Parties hereby submit to personal jurisdiction in the Fulton County Superior Court, State of Georgia, or the United States District Court for the Northern District of Georgia. In addition, for purposes of an action to enforce any award entered in the arbitration, Buyer hereby submits to personal jurisdiction in any court anywhere in the world having jurisdiction over property that is the subject of this Agreement or Buyer's affairs, other property, or assets (including money and deposit accounts) in respect of or against which such award may be enforced, regardless of whether such affairs, property, or assets have any relation to the subject matter of this Agreement and even if Buyer's contacts with the forum for enforcement are fleeting, incidental, or unintentional.

## **21. Notices**

**21.1.** All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the Parties at the addresses set forth on the face of the Sales Order Confirmation or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.

## **22. Severability**

**22.1.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision

of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

## **23. Survival**

**23.1.** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Arbitration, Submission to Jurisdiction for Enforcement and Survival.

## **24. Amendment and Modification**

**24.1.** These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each Party.

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