

**TERMS AND CONDITIONS OF SALE
ACE AND COMPANY, INC. D/B/A SHANE INDUSTRIES**

ACE AND COMPANY, INC. D/B/A SHANE INDUSTRIES (“SELLER”) ACCEPTS YOUR ORDER ON THE EXPRESS CONDITION THAT YOU (“BUYER”) AGREE TO THE TERMS AND CONDITIONS BELOW (THE “TERMS”), AND NO OTHERS. YOUR ACCEPTANCE AND RECEIPT OF SELLER’S GOODS OR SERVICES SHALL CONSTITUTE YOUR AGREEMENT TO EACH OF THE TERMS. SELLER SHALL NOT BE BOUND TO YOUR DIFFERENT OR ADDITIONAL TERMS UNLESS SELLER ACCEPTS SUCH TERMS IN A WRITING SIGNED BY AN AUTHORIZED OFFICER OF SELLER SPECIFICALLY REFERENCING SUCH ADDITIONAL TERMS.

1. **Prices:** Unless otherwise agreed in writing, all prices and charges specified herein are based on U.S. dollars, FOB origin and are effective for the longer of: (a) the time period set forth in Seller’s written quotation for the goods; or (b) thirty (30) days from the date of the quotation. Typographical and clerical errors made by Seller, including errors in pricing in Seller’s written quotation, are subject to correction by Seller. Transportation shall be by common carrier, at Buyer’s risk and expense. If the delivery date is postponed by Buyer, Seller shall have the right to adjust the price of the undelivered goods to Seller’s price at the time of shipment.
2. **Taxes:** Any sales, use, excise, customs, or value added tax which may be imposed upon the sale or use of the goods or any property tax levied after readiness to ship or any excise or customer tax, license or similar fee required under this transaction shall be in addition to the quoted prices and shall be paid by Buyer. If Buyer is exempt from any taxes, Buyer shall furnish to Seller an appropriate tax exemption certificate in a form acceptable to the taxing authority.
3. **Payment:**
 - (a) Unless otherwise agreed by Seller in writing in advance, payment terms are net thirty (30) days from date of invoice subject to Seller’s internal credit review process. A service charge of 1.5% per month, not to exceed the maximum rate allowed by law, shall apply to the portion of Buyer’s outstanding balance which is not paid when due. If legal action is taken by Seller to collect any past due amount, Buyer shall be liable for Seller’s reasonable attorneys’ fees, plus all other related costs and expenses.
 - (b) Unless otherwise agreed in writing, payment on export orders shall be made by an irrevocable confirmed letter of credit payable in U.S. dollars against Seller’s invoice and standard shipping documents. Such letter of credit shall be in amount equal to the full purchase price of the goods and shall be established in a bank acceptable to Seller.
4. **Delivery, Risk of Loss, Shipment, and Acceptance:**
 - (a) Delivery dates specified herein or otherwise communicated to Buyer are approximate only and are based on conditions at the time Seller accepts Buyer’s purchase order. Seller may, without any liability to Buyer, extend delivery dates for good cause, including shortages of raw materials.
 - (b) Delivery shall be complete upon transfer of possession of the goods to a common carrier, FOB origin or FCA factory, as the case may be, whereupon title and all risk of loss, damage or destruction to the goods shall pass to Buyer.
 - (c) In the absence of Buyer’s specific written instructions, the carrier will be selected by Seller. In no event shall Seller be liable for any delay in delivery by the carrier, nor shall the carrier be deemed an agent of Seller.
 - (d) Seller reserves the right to make partial shipments and to submit invoices for partial shipments. For all cable sales, Seller also reserves the right to ship overages of weight, length, size and/or quantity (not to exceed five percent (5%)) or as quoted, unless Buyer advises Seller in writing not to ship quantity variances prior to or at the time of Buyer’s order.
 - (e) All goods shall be subject to inspection by Buyer after delivery to determine conformity with Buyer’s order and Seller’s advertised or published specifications. Goods not expressly rejected in a writing delivered to Seller within fifteen (15) days of delivery shall be deemed to

have been accepted by Buyer. Goods are only subject to rejection by Buyer for nonconformance with either (i) Buyer's order or (ii) Seller's advertised or published specifications.

5. **Changes; Cancellation and Returns:** Orders accepted by Seller are not subject to change or cancellation by Buyer after materials have been ordered or manufacturing commences, except with Seller's written consent and upon Buyer's payment of all costs or losses incurred by Seller. Unless otherwise agreed in writing, such charge shall not be less than fifteen percent (15%) of the price of the goods subject to the change or cancellation. Goods may not be returned without Seller's prior written authorization.
6. **Restocking fee:** Standard Assemblies 50%, Custom Material Upon Authorization, all fees are negotiable. All returns are subject to authorization, inspection and all material must be on like new conditions, materials eligible for authorization must be within one-year period from the date of purchase.
7. **Warranty:**
 - (a) Seller's only warranties to Buyer are that on the date of shipment, all goods manufactured by Seller shall be free from defects in material and workmanship under normal use and service.
 - (b) No warranty extended by Seller shall apply to:
 - any goods which have been modified or altered by persons other than Seller; or
 - any goods subjected to any misuse, neglect, improper storage or handling, installation or accidental damage; or
 - any goods manufactured by a third party.

Seller's exclusive obligation under this warranty is, at Seller's option, to repair the defective goods, to supply replacement goods free of charge (FOB origin or FCA factory, appropriately), to refund to Buyer the purchase price paid for the defective goods, or to grant credit for the value of any goods found to be defective under this warranty in installment sales. Seller shall not reimburse or make any allowance to Buyer for any labor charges incurred by Buyer for replacement or repair of any goods unless such charges are authorized in advance in writing by Seller.

- (c) This warranty is made on the condition that Buyer gives Seller immediate written notice of any defect (notice must be delivered to Seller within one (1) year from the date of shipment), that Buyer gives Seller access to the goods and Buyer's relevant records and data, and that Seller's inspection reveals that Buyer's claim is valid under the terms of this warranty. No returns will be accepted by Seller unless accompanied by Seller's Return Material Authorization.
- (d) With respect to third party goods, Seller's only warranty to Buyer is that such goods are free of any rightful claims of their manufacturer. To the extent any warranties extended to Seller by their manufacturer are transferable; Seller shall transfer such warranties to Buyer.

THIS WARRANTY APPLIES TO THE GOODS ONLY AND NOT TO ANY COMBINATION OR ASSEMBLY OF THE GOODS OR ANY SERVICES OF SELLER. SELLER MAKES NO WARRANTY OTHER THAN THE WARRANTY SET FORTH HEREIN AND THE WARRANTY ON PATENTS. SUCH WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. **Patents:**
 - (a) Seller warrants to Buyer only that the goods manufactured by Seller shall be delivered free from any rightful claim of any third party for infringement of a United States patent. Seller shall defend Buyer against any such claim of infringement and shall pay any resulting damages finally awarded, provided that: (i) Buyer promptly notifies Seller in writing of any claim, and (ii) Seller has sole control of the defense and all related settlement negotiations. If such a claim arises, Buyer at its own cost shall assist Seller in the conduct of such defense; and, Buyer shall allow Seller, at Seller's option and expense, to procure the right for Buyer to continue using the goods, to replace or modify the goods so that they become non-infringing, or to grant Buyer a refund of the purchase price in exchange for return of the goods claimed to infringe. Seller's total liability under this patent infringement warranty shall not exceed the amount received by Seller as the purchase price for the goods subject to such claim of infringement.

- (b) The warranty set forth in Section 8(a) above does not apply, and no warranty is made, to claims arising out of combinations of the goods with goods provided by others, or to claims resulting from compliance of the goods with Buyer's design or specifications.
- (c) Buyer assumes and shall hold Seller harmless against any patent liability for goods manufactured to Buyer's design or specifications or specially designed by Seller to meet Buyer's requirements.

THIS SECTION SETS FORTH SELLER'S ENTIRE LIABILITY WITH RESPECT TO PATENTS.

- 9. **Indemnity:** Seller shall indemnify Buyer for sums which Buyer shall become obligated to pay any third party by reason of Buyer's liability imposed by law for: (a) bodily injury, including death, or (b) physical injury to or destruction of tangible property, in either event to the extent directly caused by defects in goods sold by Seller or Seller's negligence. However, in the event any claim for which Seller is responsible is caused by the negligence of both Buyer and Seller, Seller shall be responsible for only that portion of the claim equal to the percentage of the total fault for any claims or demands against Buyer for which Seller is responsible hereunder.
- 10. **Limitation of Liability:** Neither Seller, nor its suppliers, shall be liable, whether in contract, warranty, failure of a remedy to achieve its intended or essential purposes, tort (including negligence), strict liability, indemnity or any other legal theory, for loss of use, revenue or profit, labor costs, or for the costs of capital or of substitute use or performance, or for indirect, special, liquidated, incidental, or consequential damages, or for any other loss or cost of a similar type, or for claims by Buyer for damages of Buyer's customers. Seller's maximum liability for any claim shall be the price of the good on which the claim is based. Buyer and Seller agree that the exclusions and limitations set forth in this section are separate and independent from any other remedies which Buyer may have.
- 11. **Force Majeure:** If Seller suffers a delay in performance due to any cause beyond Seller's reasonable control, the time for Seller's performance shall be extended a period of time equal to the period of delay and its consequences. Seller will give Buyer written notice within a reasonable time after Seller becomes aware of such delay.
- 12. **Export:** The goods may be subject to export controls and regulations of the U.S., the country of manufacture, or the country of shipment, and export may require a valid export license. Seller's acceptance of Buyer's order and delivery of goods is conditioned on compliance with applicable export controls. Seller will have no obligation to sell or deliver any product until all required US and/or other export licenses have been granted and there are no other impediments arising from any applicable export regulations. No goods sold to Buyer may be exported or re-exported unless such export or re-export complies fully with all applicable export regulations.
- 13. **Changes to the Goods:** Seller reserves the right to change the part number, design, dimensions, weight or specifications of the goods at any time. However, Seller shall not make any change to goods ordered by Buyer without the Buyer's consent if the change impairs the performance or function of the goods.
- 14. **General:**
 - (a) Any drawings, data, designs, software programs or other technical information supplied by Seller to Buyer in connection with the sale of the goods shall remain Seller's property and be held in confidence by Buyer. Such information shall not be reproduced nor disclosed to others without Seller's prior written consent.
 - (b) The laws of the State of North Carolina, without regard to conflicts of law principles of any jurisdiction, shall govern the validity, interpretation and enforcement of these Terms and any order governed by these Terms. It is expressly agreed to exclude from these Terms and any purchase by Buyer of goods from Seller the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto.