

## **LESLIE CONTROLS, INC. TERMS AND CONDITIONS**

**1. ENTIRE AGREEMENT:** This agreement is intended by Leslie Controls, Inc. and the Purchaser as the final expression of their agreement and is the complete and exclusive statement of the terms and conditions thereof notwithstanding any oral representations or statements to the contrary heretofore made. No modification hereof shall be effective unless in writing signed by both parties and specifically stating it is such a modification. If terms or conditions are contained herein which are additional to or different from the Purchaser's order, then this acknowledgment supersedes the Purchaser's order.

**2. PURCHASE ORDER:** a. Purchase Orders issued to Seller covering the sale of Product will be governed solely by these terms and conditions of sale and any other mutually agreed upon written provisions agreed to by both Parties. Any verbal agreements are expressly excluded.

b. Buyer's Purchase Order shall include: i) Seller's Part Number and/or applicable specifications referenced in the Seller's quotation including the description of the part; ii) delivery dates per the Seller's quoted lead time; iii) price; iv) quantity; v) location to which the Product is to be shipped; vi) location and invoicing details where payment should be sent; vii) Buyer's Purchase Order number and Seller's quotation number, if applicable; viii) any special routing, packing, labeling, handling or insurance requested by Buyer, if applicable; and ix) the end-use and end-user of the Product ordered and whether the Product will be used for military or quasi-military purposes.

c. If Buyer requires Seller a use in relation to the Reach Regulation that results in Seller incurring obligations under that regulation, Buyer shall indemnify Seller for any costs or expenses incurred by Seller that arise out of or in connection with the fulfillment of any such obligations. Seller shall not be held liable for any delay arising out of the fulfillment of any such obligations.

**3. PRICES AND DISCOUNTS:** All prices and discounts are in accordance with the established price and discount schedules of Leslie Controls, Inc.

**4. PRICE TERMS:** Unless otherwise agreed upon in writing by Leslie Controls, Inc., prices quoted are F.O.B. Tampa, FL. Leslie Controls, Inc. shall not be responsible for any storage, transportation, or similar charges incurred at destination.

**5. BOND PREMIUMS:** In the event Leslie Controls, Inc. shall be required as a condition of the manufacture and sale of goods covered hereby to furnish a performance bond, all bond premiums and expenses in connection therewith shall be paid by the Purchaser in addition to the quoted purchase price.

**6. INTEREST:** Overdue invoices shall bear interest at the rate of 2% per month on the unpaid balance from the past due date of the invoice.

**7. PAYMENT TERMS:** Subject to establishment of satisfactory credit, terms are strictly net 30 days (60 days for overseas shipments) after date of invoice payable in U.S. currency or, in the case of overseas shipments, in negotiable instruments which are to be transacted through a mutually acceptable banking establishment. No cash discounts or other discounts for prompt payment are offered unless specifically stated on the face hereof.

**8. TAXES:** Any taxes imposed by federal, state, foreign, or local governmental authority on the sale or use of the goods covered hereby shall be paid to Leslie Controls, Inc. by the Purchaser in addition to the quoted purchase price, unless the Purchaser has filed a valid tax-exempt certificate with Leslie Controls, Inc.

**9. FUTURE PRICES:** Prices quoted herein are firm for shipment of the goods covered hereby within the issued quote validity or as previously negotiated in writing. If a Purchase Order is issued outside of the quote validity prices are subject to change by Leslie Controls, Inc. without notice. Delays in delivery caused by the Purchaser shall subject the prices herein to escalation. Goods held by Leslie Controls, Inc. beyond delivery date at the request of the Purchaser will be invoiced on the date of completion and terms of payment will apply as from said invoice date. Goods so delayed or held will be subject to charges for storage and all other expenses incident to such delay or holding.

**10. DELIVERY AND EXCUSABLE DELAY:** a. The delivery dates shown are our best estimate of the time products will be shipped from the Seller's facility and we assume no liability for loss, damage or consequential damages due to delays. Seller will prepare Product in accordance with its normal commercial practices. Delivery of parts shall be FCA (incoterms 2010) Seller's facility. Seller reserves the right to make partial shipments against the total Purchase Order requirements and delivery in advance of the scheduled delivery date whenever possible. Buyer's acceptance of late deliveries shall constitute a bar to a claim of late delivery. All shipping expenses from the FCA point to the Buyer, including any transportation or insurance costs, shall be borne by the Buyer. If Seller prepays such transportation costs, Buyer shall reimburse Seller upon receipt of an invoice for those charges. In the event of inability for any reason to supply the total demands for the materials specified in this order, Seller may allocate its available supply among any or all purchasers, as well as departments and divisions of the Seller. On such basis as it may deem fair and practical, without liability for any failure of performance which may result therefrom. Title and risk of loss will pass to Buyer upon shipment from the Sellers facility. Seller is entitled to quote additional charges for any expedited shipments, special routing, packing, labeling, handling or insurance requested by the Buyer.

b. Notwithstanding any other provision in these terms and conditions to the contrary, the Seller shall not be liable for failure to perform any of its obligations under these terms and conditions arising out of causes beyond its reasonable control without Seller's fault or negligence, including, but not limited to, acts or omissions on the part of Buyer; acts of God; civil strife; labor strikes; actions on the part of the Government or sovereign government in its sovereign or contractual capacity; fires; floods; epidemics and pandemics; quarantine restrictions; or, freight embargoes. If an Excusable Delay event causes a Seller delay, then the date of Seller's performance shall be extended by the period of such delay or Seller may cancel Buyer's Purchase Order with respect to such delayed Product.

**11. CANCELLATION:** All orders are firm and are not subject to cancellation or change in specifications, shipping schedules or other conditions by the Purchaser without the written consent of Leslie Controls, Inc., which will be given only upon the written agreement of the Purchaser to compensate Leslie Controls, Inc. for all expenses incident to such cancellation or changes.

**12. CREDITS AND RETURN OF GOODS:** Goods covered hereby may be returned to Leslie Controls, Inc. for credit ONLY with the prior written approval of Leslie Controls, Inc. and if accompanied by a completed "Return Goods Authorization" issued by Leslie Controls, Inc. After inspection, report and review of circumstances, appropriate credit may be allowed only for current catalog items or parts, less

reconditioning and restocking charges as applicable. Any credit allowed will be based on the selling price at the time of original shipment from Leslie Controls, Inc.

13. WARRANTY: Leslie Controls, Inc. warrants to the original Purchaser that the goods covered hereby manufactured by Leslie Controls, Inc. will be free from defects in material or workmanship for a period of one year from the date of shipment from Leslie Controls, Inc. under normal use and service. This warranty shall not apply to any goods damaged through improper installation, accident, negligence, abuse, or poor operating practices. This warranty does not apply to replacement parts which are not manufactured or supplied by Leslie Controls, Inc., nor does it apply to defects or damage caused by use of parts not manufactured or supplied by Leslie Controls, Inc. or by repairs not performed by Leslie Controls, Inc.

THE WARRANTY GIVEN IN THIS PARAGRAPH IS EXCLUSIVE,  
EXCEPT AS SO WARRANTED, THE GOODS COVERED HEREBY  
ARE SOLD AS IS. LESLIE CONTROLS, INC. MAKES NO OTHER  
WARRANTY, EXPRESS OR IMPLIED, COVERING SUCH GOODS,  
INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY  
OR FITNESS FOR ANY PARTICULAR PURPOSE.

14. WARRANTY OBLIGATION: REMEDY: If any goods covered hereby manufactured by Leslie Controls, Inc. are alleged to be defective under the warranty given in paragraph 12, the Purchaser shall notify Leslie Controls, Inc. in writing and, after receipt of shipping advice, the Purchaser may return the alleged defective item to Leslie Controls, Inc., Tampa, Florida, transportation charges prepaid by the Purchaser. If found to be defective, Leslie Controls, Inc. will, at its option, repair the item or replace it free of all charges, except said transportation charges.

The parties hereto agree that the Purchaser's sole and exclusive remedy against Leslie Controls, Inc. shall be the repair or replacement as provided above and that Leslie Controls, Inc. shall have no other liability, except said repair or replacement, for any damages from any cause whatsoever. The Purchaser specifically agrees that no other remedy shall be available to the Purchaser (including, but not limited to, special, incidental or consequential damages for personal injury, property damage, lost profits, repair or replacement costs, labor expenses, interruption of operations, or any other special, incidental or consequential damages) and that Leslie Controls, Inc. shall in no event be responsible for same. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as Leslie Controls, Inc. has made or is willing and able to make said repair or replacement. Leslie Controls, Inc. neither assumes, nor authorizes any other person to assume for Leslie Controls, Inc. any other liability in connection with the goods covered hereby.

15. INDEMNITY: The Purchaser assumes all risks of and responsibility and liability for all losses, damages, and personal injuries which may be incurred by any of its employees, agents, independent contractors, customers, employees of its customers, or any other persons, caused directly or indirectly, by the goods covered hereby. The Purchaser expressly and unequivocally agrees to indemnify and save Leslie Controls, Inc. harmless from all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including attorney's fees, arising out of, connected with, or resulting, directly or indirectly,

from the goods covered hereby; to defend, at the Purchaser's own cost and expense, all suits which may be brought against Leslie Controls, Inc., either alone or in conjunction with others, upon any such liabilities or claims, and to promptly satisfy, pay and discharge all judgments and fines that may be recovered against Leslie Controls, Inc. in all such actions.

**16. RETURNS FOR NON-WARRANTY REPAIRS:** If the Purchaser desires to return goods for repairs due to causes not covered under the warranty given in Paragraph 12, the Purchaser shall notify Leslie Controls, Inc. and, after receipt of shipping advice, the Purchaser may return the item to Leslie Controls, Inc., transportation charges prepaid by the Purchaser. When making any return, the Purchaser shall supply Leslie Controls, Inc. with all possible information regarding the trouble experienced and complete details regarding the installation with which the item was used.

**17. LIABILITY:** The Purchaser shall remain primarily liable for the purchase price. Leslie Controls, Inc. shall not be obliged to accept any term or condition of payment which will shift said liability to a third person not a party to the contract of sale, whether or not such third person is the United States government, its agents or instrumentalities.

**18. LAWS AND REGULATIONS:** Leslie Controls, Inc. represents that the goods covered hereby are not manufactured or sold in violation of any federal, state or local law or regulation. Leslie Controls, Inc. makes no representation and assumes no liability regarding laws, regulations, import duties, or taxes of any foreign jurisdiction.

**19. DESIGNS:** All designs and specifications shown in catalogs are subject to change by Leslie Controls, Inc. without notice.

**20. WEIGHTS AND DIMENSIONS:** Shipping weights and dimensions given in catalogs and drawings are as close to actual as practicable but are not guaranteed. No claims will be allowed because of any discrepancy between such listed data and actual weight, or dimensions of goods shipped.

**21. SHIPPING AND PACKING:** All goods are carefully packed for shipment. Leslie Controls, Inc. shall not be liable for any loss, delay or damage after having received "in good order" receipts from the transportation company. All claims by the Purchaser for loss, delay or damage shall be made directly to the carriers involved in the shipment. Leslie Controls, Inc. will render all reasonable assistance to the Purchaser in securing satisfactory adjustment of such claims. Goods will be shipped by the method and via the carrier that Leslie Controls, Inc. believes dependable, unless a method or carrier is specifically designated by the Purchaser in writing.

**22. ERRORS:** Leslie Controls, Inc. reserves the right to correct all typographical or clerical errors which may be present in its prices or specifications. No claims will be allowed because of any such errors.

**23. SPECIFICATION CLAIMS:** Failure of the Purchaser to make a claim in writing against Leslie Controls, Inc. within ten (10) days after any delivery of any of the goods covered hereby shall constitute an irrevocable acceptance of the goods comprising the particular delivery and the Purchaser's acknowledgment that the goods in said delivery meet the agreed specifications.

**24. WAIVER:** Waiver by Leslie Controls, Inc. of a breach of any of the terms and conditions hereof shall not be construed as a waiver of any other breach.

25. ASSIGNABILITY: Neither this agreement nor any right or obligation hereunder is assignable by the Purchaser without the prior written consent of Leslie Controls, Inc., except to an assignee or successor in title (by merger or otherwise) to substantially all the assets of the Purchaser. This agreement shall be enforceable against the assigns and successors of the Purchaser.

26. PARAGRAPH HEADINGS: Paragraph headings used herein are for convenience only and are not a part of this agreement and shall not be used in construing it.

27. APPLICABLE LAW: The construction, performance and completion of this agreement shall be governed by the laws of the State of Delaware. To the extent that the provisions hereof may at any time vary from the Uniform Commercial Code of the State of Delaware, the provisions hereof shall govern.

28. INTELLECTUAL PROPERTY (IP) / IP INDEMNITY: a. Background IP. Each Party shall retain ownership of intellectual property rights existing as of the Effective Date, or developed or acquired independently of the Project, and nothing in these terms and conditions shall assign any ownership to the other Party with respect to such intellectual property rights.

b. Individually Developed Foreground IP. The Parties acknowledge that the performance of this Agreement may result in the creation and development of certain Intellectual Property Rights (the "Foreground IP", the IP Rights related to those Foreground IP shall be referred to as "Foreground IP Rights"). The Foreground IP which will be developed by one single Party without any creative involvement of the other Party (the "Individually Developed Foreground IP") shall belong to the developing Party.

c. License of Supplier's Background IP Rights. Supplier grants to Buyer for the term of these terms and conditions, an irrevocable, non-exclusive, worldwide, perpetual – royalty free license, with the right to grant sublicense, to use Supplier's Background Intellectual Property Rights (the "Background IP", the IP Rights related to the Background IP shall be referred to as ("Background IP Rights") to use and sell the Product as needed to incorporate the product into its assembly.

d. Seller agrees to indemnify, defend and hold Buyer harmless from any and all third party claims resulting from any alleged infringement of patents, copyrights or other third party intellectual property rights, or from the misuse of third party trade secrets. Buyer shall give Seller prompt notice of any such claims. Buyer shall give Seller control of the defense of such claim and Buyer authorizes Seller to settle or defend such claims in its sole discretion on Buyer's behalf, subject to the provisions of the following sentence. Buyer shall assist Seller in defending any such claim (at Seller's reasonable expense) upon request by Seller. Should Buyer be enjoined from selling or using the Goods as a result of such claim, Seller will, at its sole option and discretion, either (i) procure or otherwise obtain for Buyer the right to use or sell the Goods; (ii) modify the Goods so that it becomes non-infringing but still substantially meets the original functional specifications of the Goods (in which event, for the avoidance of doubt, all warranties hereunder shall continue to apply unmodified); (iii) upon return of the Goods to Seller, as directed by Seller, provide to Buyer a non-infringing Good meeting the functional specifications of the Goods.

29. COMPLIANCE WITH LAWS: Seller warrants that all Goods furnished by Seller under the Order shall comply with all applicable local, state, Federal and all other applicable laws, ordinances and regulations,

including those concerned with labor, environment and safety, as those laws, ordinances and regulations are amended from time to time.

**30. CONFIDENTIAL INFORMATION:** All Confidential Information furnished hereunder shall remain the property of the Disclosing Party. The Parties acknowledge that each Party hereto and its employees, agents, affiliates or subcontractors (collectively, the "Recipient") may be exposed to certain Confidential Information (as defined below) of the other Parties to this Agreement (the "Disclosing Party"). Any Confidential Information of the Disclosing Party disclosed pursuant to this Agreement may be used only for the purpose related to this Agreement. The Recipient (i) will hold the Disclosing Party's Confidential Information in strict confidence; (ii) will not disclose the Confidential Information to any third party without the written consent of the Disclosing Party and will take all reasonable steps to prevent such disclosure (which steps will include, without limitation, at least the same degree of care, but not less than a reasonable degree of care, and security precautions that the Recipient uses to protect its own confidential information); and (iii) will only use or disclose such Confidential Information within the Recipient's own organization on a need-to-know basis or to the extent required to be disclosed by the Recipient to comply with applicable laws or regulations or judicial order, in which event the Recipient shall provide prior written notice of such mandated disclosure to the Disclosing Party and shall cooperate with the Disclosing Party (at the Disclosing Party's expense) in connection with any efforts thereby to prevent or limit such disclosure. Moreover, the Recipient agrees to transmit Confidential Information only to the Recipient's partners, directors, officers, employees, agents, advisors, and affiliates or those of the Recipient's affiliates only on a need-to-know basis and who are informed by the Recipient of the confidential nature of the Confidential Information and who agree to be bound by the terms of this section or a confidentiality agreement with terms at least as restrictive as those set forth herein. The Recipient will be responsible for any breach of any provision of this Agreement by the Recipient's affiliates, partners, directors, officers, employees, agents, and advisors and those of the Recipient's affiliates. Confidential Information will be maintained in confidence indefinitely. Each Party shall immediately notify the other in writing of any known or perceived misappropriation or disclosure of the Confidential Information, whether such misappropriation or disclosure is a result of a negligent or an intentional act of the Recipient or a third party.

**31. EXPORT COMPLIANCE:** a. Buyer represents and warrants that it will comply with all applicable import and export control laws and regulations, including, without limitation, the United States Export Administration Regulation ("EAR"), the United States International Traffic in Arms Regulations ("ITAR"), the United States Office of Foreign Assets Control Regulations, the United States Foreign Trade Regulations, European Union and country-specific import and export regulations including EU and/or country-specific sanctions regimes, and other applicable laws and regulations, and will retain documentation evidencing such compliance. Buyer will obtain import and re-export approvals and licenses required for Parts, transfers, services and technical data delivered and will retain documentation evidencing compliance with those laws and regulations. Buyer agrees to indemnify and hold Seller harmless from any fines, penalties, or other liability imposed by any government entity arising from any failure of Buyer to comply with such laws and regulations.

b. Seller will deliver Parts cleared for export, but Seller will not be liable to Buyer for any failure to provide Parts, services, transfers or technical data as a result of government actions that impact Seller's ability to perform, including, but not limited to i) any governmental failure to provide, or the cancellation of, export or re-export licenses; ii) any subsequent interpretation of applicable import,

transfer, export or re-export law or regulation after the date of any order or commitment that has a material adverse effect on Seller's performance; or iii) delays due to Buyer's failure to follow applicable import, export, transfer, or re-export laws and regulations or to assist Seller in acquiring the same. The Buyer shall not be relieved of its payment obligations if any of the above events occur.

c. If Buyer designates the freight forwarder for export shipments from the United States or any another country (whichever applicable), then, unless otherwise instructed or notified by Seller, Buyer's freight forwarder will export on Buyer's behalf and Buyer will be responsible for any failure of Buyer's freight forwarder to comply with all applicable export requirements. Seller will provide Buyer's designated freight forwarder with required commodity information.

d. Where Buyer holds the design authority for a Part or otherwise possesses the relevant export classification for a Part, Buyer shall provide Seller with the relevant export classification data, such as, inter alia, classification numbers according to EU and/or country specific Military Lists, classification numbers according to Annex 1 of Regulation No 428/2009/EC setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (European Dual Use Regulation), Export Control Classification Number ("ECCN"), Harmonized Tariff Schedule ("HTS") code or International Traffic in Arms Regulations ("ITAR") classification, as applicable. Buyer shall provide updates to Seller in a timely manner as changes occur.

**32. LIMITATION OF LIABILITY: ALL LIABILITY OF SELLER IS PRECLUDED UNLESS SELLER IS LIABLE BECAUSE OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, THESE LIMITATIONS WILL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BY OPERATION OF LAW, OR OTHERWISE.**

**NOTWITHSTANDING ANYTHING IN THESE CONDITIONS OF SALE TO THE CONTRARY, IN NO EVENT WILL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES OR USE EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THESE CONDITIONS OF SALE AND THE TRANSACTIONS ARISING OUT OF BUYER'S PURCHASE ORDER. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS WILL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BY OPERATION OF LAW, OR OTHERWISE. THESE EXCLUSIONS OF DAMAGES SHALL BE DEEMED INDEPENDENT OF, AND SHALL SURVIVE, ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY UNDER THE TERMS OF THESE CONDITIONS OF SALE.**

**NOTWITHSTANDING THE PROVISIONS OF ANY APPLICABLE LIMITATIONS ACT OR OTHER STATUTE, IN NO EVENT SHALL BUYER COMMENCE ANY ACTION ARISING OUT OF THE PURCHASE ORDER OR THE CONTRACT BETWEEN THE PARTIES LATER THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.**

**33. SETOFF:** The Buyer hereby expressly waives any right of offset it may have against the Seller, Seller's parent, subsidiaries, affiliates or other divisions.

34. SURVIVAL: All provisions of these terms and conditions which by their nature should apply beyond its term will remain in force after any termination or expiration of these terms and conditions or any Purchase Order issued hereunder including, but not limited to, those addressing the following subjects: Export Compliance; Confidentiality; Intellectual Property; Intellectual Property Indemnity; Indemnification, Survival; Limitation of Liability and Warranty.

35. INDEPENDENT CONTRACTOR AND THIRD PARTY BENEFICIARIES: a. These terms and conditions and any Purchase Order issued hereunder shall not be construed as a teaming agreement, joint venture, partnership, or other such arrangement, is intended by these terms and conditions or any Purchase Order. Neither party shall be under any obligation to or with or give any compensation to the other party.

b. Except as expressly provided to the contrary in these terms and conditions, the provisions of these terms and conditions of sale are for the benefit of the parties hereto and not for the benefit of any third party.