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# STANDARD TERMS AND CONDITIONS OF SALE

## THE CONTRACT

- I. In these Terms and Conditions of Sale (hereafter "Conditions"), "Darwin" means Darwin Chambers Company, LLC. "Purchaser" means the company, firm, individual or other party with whom Darwin contracts.
- II. The acceptance of any order or specification, and terms of payment relating to same, is subject to approval by Darwin's management. All sales contracts shall be effective only when approved and acknowledged, in writing, by Darwin's management. Changes to orders that have already been accepted by Darwin must also be confirmed in writing and accepted by Darwin, and where the changes result in an increase in the original cost, the additional costs shall be paid to Darwin by the Purchaser.
- III. All contracts entered into between Darwin and the Purchaser shall be subject to these Conditions. In the event that the Purchaser has not received a copy of these Conditions in relation to a specific order, these Conditions shall still apply to the contract provided they had previously been made available to the Purchaser.
- IV. Any description contained in Darwin's estimates, brochures, website, or other promotional or informational material is intended to present a general description of Darwin's products only. Specifications are subject to change without notice. Only that description as contained in the approved submittal and final written contract between Darwin and the Purchaser shall be considered final and actual.
- V. All prices quoted are exclusive of taxes and bonding, unless specifically stated otherwise. Unless stated otherwise, taxes and bonding are payable by the Purchaser. Darwin Chambers Company is not responsible for duties, tariffs, or export-related fees. Certifications, inspections, and licensing not required at the point of manufacture are not included, unless explicitly stated otherwise by Darwin Chambers Company. All sales are final; all terms, warranties, representations, and products are offered and intended for domestic sale and/or use, unless specifically stated otherwise.

## DELIVERY AND COMPLETION

- I. Shipping and installation dates are based upon prompt receipt of all necessary information by Darwin including signed approval drawings where appropriate. All scheduling information is provided and Darwin shall make its best efforts to see that delivery is made within the time estimated, but is subject to delays caused directly or indirectly by matters beyond its control. In no event shall the failure to deliver shipment in the time estimated give rise to damages or be considered cause for cancellation of the order where the delay is the result of circumstances beyond Darwin's control.
- II. Unless otherwise agreed to in writing, the risk in the goods that Darwin agrees to supply shall pass to the Purchaser as soon as delivery to the Address has been affected. Risk for the goods rests with the Purchaser during the installation and commissioning phase.

## PAYMENT

- I. In these Terms and Conditions of Sale (hereafter "Conditions"), "Darwin" means Darwin Chambers Company, LLC. "Purchaser" means the company, firm, individual or other party with whom Darwin contracts.
- II. The acceptance of any order or specification, and terms of payment relating to same, is subject to approval by Darwin's management. All sales contracts shall be effective only when approved and acknowledged, in writing, by Darwin's management. Changes to orders that have already been accepted by Darwin must also be confirmed in writing and accepted by Darwin, and where the changes result in an increase in the original cost, the additional costs shall be paid to Darwin by the Purchaser.
- III. In addition to any other rights of Darwin, interest is payable on all overdue accounts (past 60 days) at the rate of 1.5% per month, or 18% per year.
- IV. Where the Purchaser defaults under the contract or any contract with Darwin in respect of payment on the due date of any sum due to Darwin, Darwin, without liability, may postpone any further shipments or may cancel the contract or any other contract between Darwin and the Purchaser, including any warranty obligations, but without prejudice to any right which Darwin may have against the Purchaser in respect of the Purchaser's default.

## CANCELLATION

Unless otherwise agreed to by Darwin, once accepted by Darwin, orders shall not be subject to cancellation by the Purchaser, unless the Purchaser fully compensates Darwin for all costs incurred, either directly or indirectly, to the extent that they are recoverable at law.

## POSTPONEMENT

If, after goods have been ordered by the Purchaser, the Purchaser seeks a (cumulative) postponement of delivery of those goods in excess of 60 days; Darwin shall invoice, and the Purchaser shall pay to Darwin, the price of the goods according to the original schedule and terms of payment, as if delivery had been effected at the time originally agreed to. Further, the Purchaser shall be responsible for any extra costs resulting from the handling and storage of the goods, including insurance premiums. Prices quoted do not include extra costs of handling, warehousing and insuring goods.



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## INSTALLATION AND TESTING

I. When Darwin is contracted to perform product installation, the Purchaser shall advise Darwin, in writing, of the date on which the site will be ready for the installation of the goods. In the event that the site is not in a condition such that the installation can be completed on the specified date, the Purchaser shall compensate Darwin for any direct or indirect costs incurred as a result of the delay, to the extent that they are recoverable at law.

II. Similarly, when Darwin is contracted to test equipment, the Purchaser shall advise Darwin, in writing, of the date on which the site and goods will be ready for testing. In the event that the site is not in a condition such that the testing can be completed on the specified date, the Purchaser shall compensate Darwin for any direct or indirect costs incurred as a result of the delay, to the extent that they are recoverable at law.

III. A written warranty for each room shall be provided to the Purchaser by Darwin upon completion, which shall have full force of effect upon receipt of payment in full by Darwin for the entire amount of the contract or purchase order (and all subsequent change orders and agreed modifications.)

## PROPRIETARY INFORMATION

Any technical information furnished by Darwin to the Purchaser relating to or as a result of an order shall be considered confidential unless otherwise indicated by Darwin, in writing, or unless required to be disclosed by governmental authority. Where the Purchaser is a general contractor, such information may be disclosed to the ultimate owner and/or user(s). In any event, such information shall not be reproduced, used or disclosed to others without Darwin's prior written consent, and shall be returned to Darwin upon request.

## CONSTRUCTION AND SEVERABILITY

All Conditions in this document shall prevail over and supersede any contrary or inconsistent terms or conditions or other documents issued by the Purchaser, whether they have been communicated in the past or are communicated in the future. In the event that any provision of these Conditions is determined to be invalid or unenforceable, the remainder of the Conditions shall remain valid and enforceable to the maximum extent so as to achieve, as closely as possible, the original intentions.

## APPLICABLE LAWS

Unless otherwise agreed, the laws of the State of Missouri shall govern if any dispute arises hereunder.

## DISCLAIMER

Darwin Chambers Company warrants that all products provided will be as specified and free from defects in materials and workmanship. Darwin makes no other warranties, nor representations of any kind whatsoever, whether expressed or implied, except that of title, and all implied warranties including any warranty of merchantability and fitness for a particular purpose are hereby disclaimed. Darwin (including its directors, officers, employees and agents) assumes no liability for indirect, incidental or consequential damages of any kind, including but not limited to lost profits, business interruption, or loss or damage arising out of the existence of any potentially harmful bacterial agents, odors, or any other substances, products or bi-products produced by, released by, or arising out of organic sources. Some jurisdictions do not allow the limitation or exclusion of liability for incidental or consequential damages, so the foregoing limitation or exclusion may not apply. In no event shall the liability of Darwin exceed the purchase price of the specific good giving rise to the alleged loss.

## LIMITATION OF LIABILITY

Total aggregate liability for damages of any nature, regardless of form of action, shall in no event exceed the amount paid by you to Darwin Chambers Company, or its affiliates for the component upon which liability is based. In no event shall Darwin Chambers Company, or its affiliates be liable for indirect, incidental, special, exemplary, punitive, or consequential damages of any nature including, but not limited to, loss of profits, revenue, production, or use, business interruption, or procurement of substitute goods or services arising out of or in connection with the use or performance of any Darwin Chambers product, whether based on contract or tort, including negligence, or any other legal theory, even if Darwin Chambers Company or any of its affiliates has been advised of the possibility of such damages.

The recommendations and suggestions regarding product application and use that are offered in the provided Operations Manual, in our product brochures, or information provided by any employee, broker, reseller, or distributor on behalf of Darwin Chambers Company, are provided as a guide in the use of our product and do not, in and of themselves, constitute a guarantee of product performance since Darwin Chambers Company has no control over the use to which other parties may apply the information or product. Darwin Chambers Company further recommends that operators and users of our Products ensure that the intended use does not violate any Federal, State, or Local law—including, as applicable, statutes regarding the treatment and disposal of hazardous wastes and associated materials. All disposal of materials must be in compliance with Federal, State and Local laws and is the sole responsibility of the Purchaser.