

## BURGER & BROWN ENGINEERING, INCORPORATED

### STANDARD TERMS AND CONDITIONS OF SALE

1. **ENTIRE AGREEMENT:** These Standard Terms and Conditions (these “Terms and Conditions”) apply to each service contract, quote or purchase order (as applicable, the “Purchase Order”) pursuant to which Burger & Brown Engineering, Incorporated (the “Seller”) proposes, or agrees, to provide certain products (the “Products”) and/or services (the “Services”) to the party requesting such Products and/or Services under the Purchase Order (“Buyer”). These Terms and Conditions, together with the Purchase Order, any specifications set forth therein (the “Specifications”), and any additional terms and conditions incorporated into and attached hereto or thereto (each a “Contract Document” and collectively, the “Contract”), constitute the sole and entire agreement between Seller and Buyer with regard to the subject matter of the Contract and supersede any prior understanding between the parties. In the event of a conflict between any Contract Documents, the Contract Documents shall have the following order of priority: the Purchase Order, these Terms and Conditions, and the other Contract Documents in reverse order of execution by both parties. Trade custom and trade usage are superseded by the Contract and shall not be applicable to the interpretation thereof.

2. **ACCEPTANCE OF CONTRACT:** The Contract shall become a binding contract of Buyer and Seller upon the execution and delivery of the Purchase Order by Buyer and Seller. All sales under the Contract are expressly limited to and the rights of the parties shall be governed exclusively by these Terms and Conditions, whether the Contract represents an offer by Seller or Seller’s conditional acceptance of Buyer’s offer. Seller’s offer, or Seller’s acceptance of Buyer’s offer, as applicable, is expressly conditioned on Buyer’s acceptance of these Terms and Conditions. No agent, salesman, or other representative, unless authorized by an authorized officer of Seller, has any authority to waive, alter or enlarge these Terms and Conditions, or to bind Seller to any representations, warranties, understandings, or agreements in respect to the Products or the Services, and no such representations, warranties, understandings, or agreements will be binding upon the Seller unless set forth in the Contract.

3. **TERMS:** Unless otherwise specified in the Purchase Order, payments for Products sold or Services performed shall be net thirty (30) days from the date of invoice, with no discount allowed for earlier payment. In the event that Buyer has failed to pay Seller for the Products or Services ordered under the Contract or any other agreement between Buyer and Seller as required by the terms and conditions of the Contract or such agreement, as applicable, then Seller, at its option, shall have the right to make the purchase price for any delivery or performance under the Contract payable in advance of such delivery or performance. In the event Buyer makes any payment by credit card, Buyer shall also pay to Seller a processing fee equal to four percent (4%) of such payment. Seller reserves the right to charge to any account outstanding more than thirty (30) days a charge of one and one-half percent (1.5%) of the principal amount due at the end of each thirty (30) day period, to be paid by Buyer to Seller until such principal amount and accrued charges are paid in full; provided, however, that if such charges are not allowed by applicable law, then such charges shall automatically be reduced to the highest percentage rate allowed by applicable law. In the event Buyer fails to pay the purchase price or any portion thereof, or any other amounts due hereunder, when due, Seller shall have the right to employ an attorney to collect the balance due and Buyer agrees to pay all collection costs incurred by Seller, including, without limitation, its reasonable attorneys’ fees.

4. **DELIVERY:** All domestic shipments shall be F.O.B., 4500 E. 142<sup>nd</sup> Street, Grandview, Missouri 64030 (“Domestic Delivery Point”). All international shipments shall be Ex Works, 4500 E. 142<sup>nd</sup> Street, Grandview, Missouri 64030 (“International Delivery Point”). All packing, loading and delivery charges shall be borne by Buyer and no claims against Seller for such costs shall be permitted; provided, however, that Buyer shall promptly reimburse Seller for any and all packing, loading or delivery charges paid by Seller unless otherwise agreed to in writing by Buyer and Seller. Shipping charges on prepaid merchandise will be collectible on delivery. All stipulated delivery of shipment dates are estimates only, and time is not of the essence in Seller’s performance of its delivery obligations under the Contract. Seller reserves the right to make deliveries of the Products in installments and the Contract shall be severable as to each such installment. If Buyer causes delay in shipment or does any other act affecting the time of payment, the full unpaid invoice price shall become due and payable as if shipment had been made. If Buyer requests or causes a delay in shipment, a reasonable storage charge may be made by Seller, and Buyer assumes all risk of loss during such storage.

5. **ALLOCATION OF RISK:** The responsibility of the Seller with regard to the Products ceases upon delivery of the Products at the Domestic Delivery Point or International Delivery Point, as applicable. Buyer assumes all risks of loss, damage or shortage in transit, and compensation for any such loss must be obtained by Buyer from the carrier. Expenses incurred in connection with claims for which Seller is not liable shall be charged to Buyer.

6. **PRICES:** The prices for the Products and Services provided by Seller shall be as stated in the Contract. Prices on accepted orders and covering Seller manufactured Products shall be firm for a period of sixty (60) days from date of acceptance; provided, however, that Seller reserves the right to increase any prices upon or prior to the time of delivery of the Products or performance of the Services to the extent of any increase in cost to Seller of any item not of Seller’s manufacture.

7. **TAXES:** In addition to the prices specified in the Contract, Buyer shall pay, and shall promptly reimburse Seller for any payments made by Seller for, any excise, sales, privilege, use or other taxes or governmental charges, local, state or federal, which arise from the sale, purchase, transportation, delivery, storage, use or consumption of the Products or the sale, purchase or performance of the Services under the Contract, or in lieu thereof Buyer shall provide Seller with a tax exemption certificate acceptable to the appropriate taxing authorities.

8. **SPECIALLY FABRICATED EQUIPMENT:** In the event the Contract covers Products manufactured and fabricated to the specifications of the Buyer, or special specifications prepared by Seller for Buyer (such Products being any products or equipment other than standard stock equipment), it is understood and agreed that the Products are specially manufactured by Seller. For this reason Seller shall have the right to recover the full price stated in the Contract, if the Buyer wrongfully rejects or revokes acceptance of the Products, fails to make a payment due on or before delivery, or repudiates or in any way breaches the Contract. If the Products are unfinished at the time of such repudiation or breach, Seller shall have the right (but not the obligation) to complete the manufacture of the Products. Upon recovery by Seller of the price, the Buyer shall automatically become the owner of the Products. In addition, Seller may recover any incidental damages as described in the Uniform Commercial Code.

9. **CANCELLATION:** In the event Buyer cancels any Purchase Order, Seller may charge and Buyer agrees to pay a cancellation fee of either fifteen percent (15%) of the sales price or, alternatively, Seller's accrued costs with regard to such Purchase Order plus twenty percent (20%), whichever is greater. Seller's cancellation fee will in no way be construed or interpreted to be a penalty and is established solely for the purpose of determining with reasonable certainty Seller's out-of-pocket costs and expenses which would otherwise be difficult to determine.

10. **CHANGES; ADDITIONAL EQUIPMENT; ENGINEERING CHARGES:** Seller reserves the right to make design or engineering changes in its goods, parts, equipment, processes and methods used for the manufacture of the Products or the performance of the Services, but Seller shall not make any material changes to the Specifications without Buyer's prior approval. Machinery, equipment, materials and labor services, including engineering or mechanical services, not specified in the Contract, are to be furnished in all cases by Buyer. Seller reserves the right to charge the Buyer for engineering charges and expenses (whether internal or to third parties) incurred by the Seller in relation to the design or manufacture of the Product, such to include (without limitation) design costs and the cost of tools. Such charges and expenses shall be payable by the Buyer in addition to the purchase price for the Product. The Seller shall remain the owner of tools and designs and all copyright and other rights thereto whether or not such charges are paid by the Buyer.

#### 11. **WARRANTY; LIMITATIONS:**

a. **Defects in Workmanship and Material:** Unless otherwise stated in the Contract, Seller warrants the Products to be free of material defects in workmanship and material during the warranty period set by the manufacturer (or, in case of manufacture by Seller, within one (1) year from the date of shipment of the Products) under normal use and service, provided all such Products are properly maintained and operated by Buyer in accordance with the Specifications, the manufacturer's and Seller's instructions, and applicable law. Any claim for defective Products must be made in writing promptly following discovery by Buyer of such defect, and in no event later than the expiration of the applicable warranty period set forth in the foregoing sentence, or all such claims shall be deemed waived. Buyer may, following notice to Seller, return any defective part, freight prepaid, to Seller's plant for inspection. If Seller determines that the part is defective, Seller will, at its option, either repair or replace the part free of charge and deliver such new or repaired part F.O.B. Buyer's plant, or, provide Buyer with a credit in the amount of the invoice for such Product. Seller's liability is limited to repair or replacement and Seller will not be liable for any damages, losses or expenses arising in connection with any use of or inability to use the Products for any purpose. Seller will not be responsible or liable for labor installation costs, delay or loss of production or sales by failure of any Product. Notwithstanding anything herein to the contrary, to the extent the warranties set forth in this Section 11 relate to property manufactured by others, Seller warrants such property only to the extent that Seller can enforce liability against the manufacturer.

b. **Limitations on Warranties:** Notwithstanding anything herein to the contrary, Seller's warranties with regard to any Product shall be void if such Product has been subject to abuse, misuse, negligence, alteration, accident, or is operated contrary to the Specifications, the manufacturer's and Seller's instructions, or applicable law, if unauthorized service has been performed, if any repair or replacement has been performed without Seller's prior authorization, or if other than genuine parts have been used for any repair or replacement. In addition, Seller's warranties with regard to any Product shall be void if such Product has been resold or transferred by Buyer to any third party purchaser or transferee. NO EXPRESS OR IMPLIED WARRANTIES, WHETHER OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR OTHERWISE, OTHER THAN THOSE EXPRESSLY SET FORTH ABOVE, WHICH ARE HEREBY AGREED TO BE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, SHALL APPLY TO ANY SERVICES PERFORMED OR PRODUCTS OR PARTS SOLD BY SELLER OR WITH RESPECT TO ANY SPECIFICATIONS. ANY TECHNICAL ADVICE PROVIDED BY SELLER WITH RESPECT TO ANY SERVICES PERFORMED OR PRODUCTS OR PARTS SOLD BY SELLER OR WITH RESPECT TO ANY SPECIFICATIONS SHALL BE FOR INFORMATIONAL PURPOSES ONLY, AND SELLER MAKES NO REPRESENTATION OR WARRANTY NOR ASSUMES ANY OBLIGATION OR LIABILITY FOR ANY SUCH ADVICE. NOTWITHSTANDING ANY OTHER PROVISION HEREOF TO THE CONTRARY, NO REPRESENTATION OR WARRANTY WHATSOEVER IS PROVIDED BY SELLER WITH REGARD TO ANY SERVICES PERFORMED OR PRODUCTS OR PARTS SOLD ON AN 'AS IS' BASIS. NO WAIVER, ALTERATION, OR MODIFICATION OF THE LIMITATIONS AND CONDITIONS SET FORTH IN THIS SECTION 11(b) AND SECTION 11(c) SHALL BE VALID UNLESS MADE IN WRITING AND SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF SELLER.

c. **Exclusive Remedy:** In the event of breach of any warranty by Seller, Buyer's sole and exclusive remedy shall be modification of the Products, repair or replacement of defective Products, or adjustment or refund of the purchase price for the Products, all only to the extent set forth in this Section 11. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY UNDER THE CONTRACT IN AN AMOUNT EXCEEDING THE AGGREGATE AMOUNT ACTUALLY PAID BY BUYER FOR THE GOODS AND SERVICES PROVIDED BY SELLER UNDER THE CONTRACT, NOR SHALL SELLER BE LIABLE FOR ANY PERSONAL INJURY, PROPERTY DAMAGE, LOSS OF PROFIT, DELAY, OR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER ARISING FROM CONTRACT, BREACH OF CONTRACT, TORT, SELLER'S NEGLIGENCE OR STRICT LIABILITY. Buyer understands that Seller has relied on Buyer's acceptance of the warranty and remedy limitations set forth in this Section 11 in entering into the Contract Documents and providing any Products or Services thereunder.

12. **FORCE MAJEURE:** In the event that Seller's performance under the Contract is delayed or made impossible or commercially impracticable due to circumstances beyond Seller's reasonable control, including, without limitation, fire, explosion, war, terrorism, civil or military disturbances, strike or other differences with workers, shortage of energy sources, facility, material or labor, delay in or lack of transportation, temporary or permanent plant shutdown, breakdown or accident, or compliance with or other action taken to carry out the intent or purpose of any law, regulation, or other requirement of any governmental authority, Seller shall have such additional time in which to perform the Contract as may be reasonably necessary under the circumstances; provided, however, that Buyer's obligation to make payments to Seller for any Products delivered or Services performed by Seller shall not be delayed or suspended. Acceptance of delivery or performance by Buyer shall constitute a waiver of claims for delay.

13. **PERMITS AND COMPLIANCE:** Buyer agrees to bear the expense of meeting any changes or modifications in local code requirements or other legal requirements which become effective after Seller has accepted the Purchase Order. Seller is not responsible for obtaining any permits, inspections or licenses required for installation or operation of the Products. Seller makes no promise or representation that the Products or Services

will conform to any federal, state, local, foreign or other laws, ordinances, regulations, codes or standards. Buyer shall install and operate the Products properly and in accordance with the Specifications, the manufacturer's and Seller's instructions, and applicable law and will not remove or change any safety devices, warnings or operating instructions placed on the Products by the manufacturer or Seller.

14. **RESALE:** On any resale of the Products by Buyer, all warranties otherwise provided to Buyer under Section 11 shall not apply to the purchaser of such Products, and Seller shall have no obligations or liability to such purchaser, warranty or otherwise. Buyer will contractually limit any purchaser's rights and remedies based on the purchase of the Products from Buyer against only Buyer.

15. **CHARACTER OF PRODUCTS AND SECURITY INTEREST:** The Products delivered by Seller under the terms of the Contract shall remain personal property and retain their character as such no matter in what manner affixed or attached to any structure or property. Buyer grants Seller a security interest in the Products, including, without limitation, any replacement parts and any proceeds thereof, until all sums due Seller have been paid to it in cash. This security interest shall secure all indebtedness or obligations of whatsoever nature now or hereafter owing by Buyer to Seller. Buyer shall pay all expenses of any nature whatsoever incurred by Seller in connection with such security interest (including, without limitation, in connection with any perfection or enforcement of such security interest).

16. **INSURANCE:** Buyer agrees to insure the Products delivered under the Contract in an amount at least equal to the purchase price against loss or damage from fire, wind, water or other causes during the time between shipment and final payment. Loss or damage by fire, wind, water or other causes within such period will not relieve Buyer from its obligations under the Contract. Buyer shall secure an appropriate clause in, or an endorsement upon, each policy of insurance required to be provided by it hereunder, pursuant to which the respective insurance companies waive subrogation and rights of recovery against Seller (and its agents and affiliates). The waiver of subrogation shall extend to Buyer's agents, subcontractors and employees. All policies of insurance required hereunder shall name Seller and its direct and indirect subsidiaries and affiliates, and their respective officers, directors, partners, members and employees as additional insureds, and such policies shall provide the additional insureds with the same coverage as provided to the named insured under such policies. Such coverage shall be primary over any insurance maintained by the additional insureds for their own behalf (which other insurance, if any, shall be excess, secondary and noncontributing to that provided by Buyer hereunder). There shall be no gap in the dollar value of the additional insureds' coverage under the above policies from the policies' deductible amounts up to the full limits of the policies. At Seller's request, Buyer shall furnish to Seller, before performing any work hereunder, certificates of insurance evidencing that the insurance required by this Section is in effect, and that the required waivers of subrogation and additional insured endorsements have been provided, and containing the unequivocal agreement on the part of the insurer to notify Seller of any cancellation or material change in coverage at least thirty (30) days before the effective date of such cancellation or change. Within thirty (30) days following any change in coverage, Buyer will provide Seller with a copy of an insurance policy evidencing such change. The insurance coverage provided by Buyer shall operate independent and apart from any obligations imposed on Buyer under the indemnity provisions in these Terms and Conditions or elsewhere. If Buyer fails to maintain the insurance required by this Section in full force and effect at all times as required under this Section, Seller may purchase such insurance on behalf of Buyer and Buyer must immediately reimburse Seller for such expense; provided, however, that Seller may, in its sole discretion and in lieu of such reimbursement, elect to offset the amount of any such expense against any payments due by Seller to Buyer under the Contract. Alternatively, failure to take out and maintain the insurance required by this Section shall entitle Seller to declare the entire purchase price to be immediately due and payable and shall also entitle Seller to recover possession of the Products.

#### 17. EXPORT COMPLIANCE.

a. General. Buyer acknowledges and agrees that the Products sold by Seller may be subject to U.S. export regulations. Such regulations include, without limitation, the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations ("ITAR"), and the regulations and orders administered by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of Treasury (collectively and interchangeably referred to as "Export Control Regulations"). Buyer agrees to comply with all Export Control Regulations in its receipt, shipment, use, transfer, re-sale, export and re-export of Seller's Products and in its handling of all technical information related to the Products.

b. Prohibited Countries and Persons. Without limiting the generality of the foregoing, Buyer agrees that the Products purchased from Seller will not be sold to, transferred to, exported to, or reexported to Cuba, Iran, Sudan, Syria, North Korea, or any country subject to U.S. sanction or embargo administered by OFAC. Buyer represents and warrants that it is not on OFAC's Specially Designated Nationals List, or the Entity List or Denied Persons List of the EAR ("Prohibited Persons") and agrees that no products purchased from Seller will be sold to, transferred to, exported to, or reexported to any Prohibited Person.

c. Prohibited Uses. Further, without limitation, Buyer agrees that the Products purchased hereunder will not be used in connection with any of the following activities: (i) research on or development, design, manufacture, construction, testing or maintenance of any nuclear explosive device, nuclear reactor, facility for fabrication, conversion, processing or storage of nuclear fuel, components thereof, or other similar activities; (ii) design, development, production, stockpiling or use of chemical or biological weapons; (iii) design, development, production or use of rocket systems including ballistic missile systems, space launch vehicles, sounding rockets, and unmanned air vehicles including cruise missile systems, target drones, and reconnaissance drones; or (iv) any activity relating maritime nuclear propulsion plants, their land prototypes and facilities for their construction, support or maintenance.

d. Buyer Provided Technical Data. Buyer represents and warrants that all specifications, drawings, designs, or technical information ("Technical Data") it has provided or will provide to Seller about any product or project, regardless of format or medium, are not controlled and do not require a license for export under U.S. Export Regulations. Buyer acknowledges and agrees that Seller will rely upon this general representation in managing its own export compliance obligations, unless Buyer provides notice to Seller, in writing, that Technical Data provided by Buyer is subject to specific restrictions on export under Export Control Regulations. In such written notice, Buyer will specifically identify the Technical Data subject to restrictions and will advise of the following: (i) whether the Technical Data provided is subject to the jurisdiction of the EAR or the ITAR; and (ii) the Export Commodity Classification Number, in the case of EAR-controlled Technical Data, or the United States Munitions List category, in the case of ITAR-controlled Technical Data.

**18. GOVERNMENT CONTRACTS.** If the provision of Products and/or Services by Seller under the Contract is subject to mandatory provisions of U.S. law concerning contracts or subcontracts with or for the benefit of the U.S. government, Buyer shall so notify Seller specifying the mandatory provisions of U.S. law which apply. If compliance with such law(s) increases Seller's costs or liability, Seller shall be entitled to adjust the prices accordingly, request separate payment of the additional costs, or terminate this agreement with Buyer being responsible for all costs incurred by Seller.

**19. INDEMNITY:** Buyer will protect, indemnify and hold harmless Seller, its members, managers, officers, directors, agents, employees and customers from and against any and all damages, losses, claims, causes of action, and expenses, including attorneys' fees, relating to or arising out of: (1) any breach by Buyer of any of its obligations under the Contract, and (2) any claim of death or injury to persons, damage to property or any other damages arising out of, or attributable to, the Products or Services provided hereunder.

**20. GOVERNING LAW; DISPUTE RESOLUTION:** The Contract shall be governed and construed according to the laws of the State of Missouri without application of any choice of law rules, conflict of laws principles or the provisions of the 1980 United Nations Convention on contracts for the International Sale of Goods. All claims and disputes (including, but not limited to, third-party claims) arising out of or relating to this Contract will be settled by confidential and binding arbitration by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The place of arbitration will be Kansas City, Missouri and the arbitration will be conducted in English. Any decision or award as a result of any such arbitration proceeding must (a) be in writing, (b) provide an explanation for all conclusions of law and fact, and (c) include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration must be conducted by an arbitrator experienced in the subject matter of the dispute and include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction.

**21. ATTORNEYS' FEES:** Subject to the other terms set forth herein, in any action or proceeding between the Buyer and Seller arising from or relating to the Contract or the enforcement or interpretation thereof, the party prevailing in such action or proceeding shall be entitled to recover from the non-prevailing party all of its reasonable attorneys' fees and other costs and expenses of the action or proceeding.

**22. MISCELLANEOUS:** The Contract is binding upon and inures to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns. In case any one or more of the provisions contained in the Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision thereof and the Contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained therein. Any amendment or modification of these Terms and Conditions or any Contract Document requires the written consent of both parties. No waiver of these Terms and Conditions or any Contract Document shall be binding on any party unless expressly agreed to in writing by such party. No delay or failure to exercise any right or remedy will operate as a waiver of such right or remedy, and except as otherwise expressly set forth herein, no right or remedy is exclusive of any other right or remedy herein or in law or equity.

**THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.**