

The logo for NORTECH, featuring the word "NORTECH" in a bold, sans-serif font. The letter "O" is stylized with a green triangle pointing to the right, and the letter "E" is also stylized with a green triangle pointing to the right.**Standard Terms and Conditions of Sale**

- 1) **Sale Agreement.** These Standard Terms and Conditions of Sale (“Terms and Conditions”) will apply to all sales by Nortech Systems Incorporated, including any of its direct or indirect subsidiaries (“Nortech”) of products and related services (the “Products”) by any buyer (“Buyer”) and together with any related purchase order and any Manufacturing Services Agreement will be the entire agreement between Buyer and Nortech regarding the manufacture and sale of the Products by Nortech to Buyer, unless Nortech has expressly agreed otherwise in writing. The Terms and Conditions together with any related purchase order(s) and any related Manufacturing Services Agreement may be referred to herein as the “Agreement”.
- 2) **Rejection of Other Terms.** Nortech specifically rejects those provisions of any purchase order, offer, or other communication from Buyer which are additional to or different from the Terms and Conditions. Neither Nortech’s delivery of the Products nor any other action at any time on the part of Nortech will constitute acceptance of any such additional or different terms. Buyer will be bound by all of the terms of this Agreement, which will prevail over any terms and conditions proposed by Buyer, when Buyer accepts these Terms and Conditions by any writing, statement, act or course of conduct which constitutes acceptance under applicable law, including failure to object in writing hereto within a reasonable time or acceptance of delivery of the Products. By acceptance hereof, Buyer expressly agrees that no collateral contracts, terms, conditions, warranties or undertakings exist between Buyer and Nortech.
- 3) **Acceptance by Nortech.** In order to be valid and binding, any purchase order submitted by Buyer for Products must be approved in writing (including by electronic means) by Nortech.
- 4) **Products.** The Products subject hereto will be those Products identified by Buyer in its written request for quotations or purchase orders.
- 5) **Purchase Price.** The price for the Products will be the price set forth in Nortech’s written quotation delivered to Buyer and such prices will be in effect only for the time period or for the quantity of Products set forth in Nortech’s quotation. If no time period or purchase quantity is set forth in such quotation, the quoted prices will only be in effect for thirty (30) days
 - a. **Raw Material Supply and Labor.** All prices, including prices for Products subject to a purchase order submitted by Buyer and accepted by Nortech but not yet delivered, will be subject to change if any raw material costs relating to the manufacture of the Products and/or labor costs necessary to produce such Products increase due to any event beyond the reasonable control of Nortech, including, without limitation, any industry wide shortages of any raw ingredient or material, labor shortages, or general inflationary pressures.
 - b. **Expedites or Changes.** Prices are based upon the build volumes provided by Buyer. Price and/or lead time may be re-quoted if purchase order release quantities or schedule differ from the quoted quantities. In the event Buyer requests a change in either quantities ordered or shipment schedule, Nortech may change the prices applicable to the Product as a result of such a change.

- c. Errors. Clerical errors may be corrected by Nortech without consent of Buyer.
- 6) Order Changes, Cancellations and Excess Materials Charges. Nortech quotation is provided in accordance with the specifications provided with the quotation. All exceptions to the specifications apply and are noted in the notes section of the quotation. Prices are based on quantities quoted and cancellation or reschedule of orders may result in material price increases or cancellation charges to Buyer.
- a. Expedited Material. Nortech may be required to pay premium prices on material quoted to meet Buyer's scheduling requirements. Any changes to material pricing to meet Buyer's schedule requirements will be passed on to Buyer.
- b. Excess Material. Some materials are purchased on reels or minimum lot sizes and as a result there may be excess unused material at the end of an order. Buyer will have the option of using excess material on an order immediately following the original order or to be billed for all excess material at the completion of the original order. In any event, if excess material exists at the end of the original order and cannot be utilized on future orders as determined by Nortech, Buyer is obligated to purchase all excess materials. Excess material will vary by quantity ordered. An estimate of excess material will be provided to Buyer upon request or at time of order based on order quantity. Nortech will make commercially reasonable efforts to minimize excess materials and charges to Buyer.
- c. NCNR Material. All non-cancelable non-returnable ("NCNR") components are Buyer's responsibility and will be shipped and billed to Buyer per prior agreement. Any changes to Product that includes NCNR materials, the Buyer is fully responsible for the cost of those items.
- d. Order Change or Cancellation. No order accepted by Nortech may be terminated, canceled, reduced, re-scheduled, or otherwise modified by the Buyer except by mutual agreement of the Buyer and Nortech.
- i. If after Nortech has quoted any price to Buyer for the Product, Buyer makes any change in the quantities, drawings or specifications applicable to the Product, Buyer will pay all reasonable costs incurred by Nortech in complying with such changes and all increases in the price applicable to the Product on account thereof.
- ii. Orders may be canceled only upon written notice to Nortech and payment to Nortech of reasonable cancellation charges determined by Nortech in its discretion, which include but are not limited to labor, materials, any costs related to cancellation and reasonable profit.
- e. Change Orders. If Buyer or Nortech requests any change to the purchase order, including without limitation a change in part number, process, drawing, design or any part of a bill of material, the requesting party will provide a proposed change order ("Change Order") and purchase order for the requested change and the associated expenditure, which the parties must agree upon. If parts are removed from the bill of material and can no longer be used, any excess inventory will be the responsibility of Buyer and will be included in the cost of the purchase order related to the Change Order.

- f. Order Push-Out. If Buyer requests any extension of a scheduled shipment date beyond thirty (30) days of the original scheduled shipment date, Buyer and Nortech will agree in writing on the terms of such extended shipment date and Buyer will pay Nortech the purchase price of the Products subject to such extended shipment date.

7) Buyer Designated Components, Buyer Owned Tooling or Equipment

- a. Designated Components or Customer Furnished Materials ("CFM"). If Buyer requires that Nortech purchase or use certain component(s) from a designated supplier or supplied CFM, Nortech will use its commercially reasonable efforts to manage such relationship. However, Nortech will not be responsible or liable to Buyer for any breach of these Terms and Conditions due to any action or inaction by the designated supplier, including, without limitation, late delivery of components and any quality issues with the components.
- b. Tooling. Liability for Buyer owned or specified tools is the full responsibility of Buyer. Payment for tools is due upon submission of an invoice to Buyer by Nortech. All tooling, inspection equipment, etc. designed and fabricated in-house or procured from a third party by Nortech to satisfy contractual and/or production/inspection needs, regardless of the Buyer having been invoiced and having made payment for said tooling, and not claimed by the Buyer for a period of thirty (30) days from the date of a request for disposition being submitted to the Buyer from Nortech will be deemed the property of Nortech and may be disposed of or retained by Nortech.
- c. Supplied Tooling or Equipment. Buyer owned tooling, inspection equipment, etc. supplied directly to Nortech by the Buyer for contractual and/or production/inspection needs, is at the risk of the Buyer. All associated costs for shipping, handling, set-up, use of, or insurance of is at the Buyer's responsibility. Supplied Tooling or Equipment will be returned to the Buyer Ex Works (EXW) Incoterms 2020, by Nortech at the completion of the contract.

8) Shipment, Delivery and Terms of Acceptance

- a. Packaging. No additional charge is made for standard commercial packaging, unless otherwise stated in the quotation notes. Standard commercial packaging is defined as connectors having protective caps and placed in a cardboard box with padding materials, marked by label, bar code or handwritten. Any additional packaging requirements will be quoted as a lot charge. All Products to be tested and packaged per industry standards unless otherwise specified.
- b. Shipment. All shipments will be delivered by Nortech Ex Works (Incoterms 2020) Nortech's facility, and the date on which Nortech makes Product available to Buyer will be the "Delivery Date". The carrier will be deemed to be Buyer's agent, and Buyer will make all claims with respect to damage in transit against such carrier. Nortech will have no responsibility for insuring shipments unless requested by Buyer at Buyer's expense.
- c. Title to Products, Risk of Loss. Title to and all risk of loss concerning the Products will pass to Buyer when the Products are available for collection by Buyer at Nortech's facility. Buyer's rejection of any Products will not shift such risk until the Products are returned to Nortech.

- d. Delivery Delay for Cause. Shipping dates are approximate and not guaranteed. Nortech will not be liable for any delays in delivery or any failure due to causes beyond Nortech's control, including but not limited to Force Majeure.
- e. Inspection and Acceptance. Buyer will inspect all shipments upon arrival and will notify Nortech in writing of any shortages or other failures to conform to this Agreement which are reasonably discoverable upon arrival. Failure to notify Nortech of any nonconforming shipment, including but not limited to notification with respect to shortages, incorrect parts or other inconsistencies between the shipment and the enclosed packing list or invoice within thirty (30) days following receipt of shipment will be deemed an unqualified acceptance of such shipment. Nortech will be afforded a reasonable opportunity to inspect the Product upon receipt of a complaint from Buyer.

9) Product Warranty

- a. Limitation of Warranty. Nortech agrees, represents, and warrants that the Product delivered hereunder, will be free from defects in workmanship for one (1) year from Delivery Date. Such warranty will not apply to components or raw materials purchased by Nortech but will apply to the workmanship applied to components and raw materials in manufacturing the finished Product. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH ABOVE, NORTECH MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, 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.

Upon receipt of written authorization and definite shipping instructions from Nortech as part of the returned materials authorization process, Buyer will return all defective material, or material not conforming to specifications, to Nortech, either after inspection by Nortech at Buyer's premises, or at Nortech's election, subject to inspection by Nortech upon receipt of the returned materials received by shipment. Material can be returned only upon written authorization of Nortech and must be returned within fourteen (14) days of receipt of such authorization including definite shipping instructions from Nortech in same condition as when received by Buyer. Non-Conforming Products so returned will be replaced or repaired by Nortech without any additional charge, or in lieu of such replacement or repair, Nortech may refund the purchase price applicable to such material. Nortech agrees to pay return transportation charges not exceeding those which would normally apply from original destination on all defective material or material not meeting specifications. However, Nortech will not be obligated for such charges when material returned proves to be free from defect and to meet specifications. Nortech will hold material that proves to be free from defect and to meet specifications for shipping instructions and Buyer will furnish such instructions promptly upon request. For the purposes of these Terms and Conditions, "Nonconforming Products" means any Products received by Buyer from Nortech that: (a) do not conform to the Product identification number listed in any applicable purchase order; (b) do not materially conform to the specifications of such Products agreed upon in writing by the parties; or (c) materially exceed the quantity of Products ordered by Buyer pursuant to a purchase order.

Products sold by Nortech will not be considered Non-Conforming Products if (a) such Products satisfactorily fulfill the performance requirements that were (i) provided by the Buyer to Nortech or (ii) as published in Nortech's product specification literature, or (b) in accordance with any written or verbal agreement between the Buyer and Nortech, or (c) are in accordance with samples approved by the Buyer. Nortech will not be liable for, or provide any warranty related to: (a) Buyer's (or Buyer's customer's) misuse negligence, neglect, vandalism, or other accident involving the Product (accidents may include, but are not limited to collisions with other objects or equipment, bird strikes, lightning, or other Force Majeure), (b) improper installation, storage, or maintenance including failure to maintain the Product in accordance with Nortech's written instructions, (c) repairs performed by Buyer or a third party at Buyer's request, (d) defects as a result of materials provided by Buyer, or (e) defects as a result of design specified by Buyer. Also, disassembly of any Product by anyone other than an authorized representative of Nortech voids this warranty in its entirety. Nortech will adhere to the compliance requirements of Nortech's corresponding Quality Management System where Product is manufactured, except to the extent customer requirements have been specifically stated and agreed upon by both parties in an express writing designed for this purpose. In the case of a return made at the convenience of Buyer upon written agreement from Nortech, Buyer will pay all freight costs incurred in returning the Product to Nortech System's facility and a handling charge equal to fifteen percent (15%) of the invoice price of the returned Product.

- b. Workmanship. Unless otherwise agreed to by contract, workmanship will be accepted in accordance with and meet requirements of IPC/WHMA-A-620, Class 2, IPC-A-610, Class 2 and IPC J-STD-001, Class 2. Nortech makes no other guarantees or warranties, expressed or implied, of any nature whatsoever as to the Product including, without limitation, warranties as to merchantability, fitness for a particular purpose or non-infringement of patent or the like unless agreed upon in writing.
- c. Buyer's Responsibilities. Buyer will be solely responsible for certification, validation of Product security/cybersecurity, patching, penetration or vulnerability testing, risk assessment or remediation unless specifically agree by Nortech in writing. Buyer will be solely responsible for data management, compliance with applicable data privacy laws (including without limitation with respect to data usage, collection, transmission and storage), rules and regulations, vulnerabilities, breaches, security incidents or events that arise from deployment or use of networked Products.

10) Credit and Terms of Payment. Unless otherwise expressly agreed in writing by Nortech, payment in full is due thirty (30) days from invoice date. Nortech may alter or revoke credit terms at any time without notice. Each shipment will be considered a separate and independent transaction for which payment is due.

- a. Buyer's Financial Condition; Insecurity. Buyer will furnish information to Nortech within thirty (30) days of its request evidencing Buyer's acceptable credit standing. If, in Nortech's sole judgment, Buyer's financial condition or any other circumstance causes Nortech to be insecure with respect to Buyer's performance of any obligation under this Agreement, Nortech may accelerate and demand immediate payment of any amounts owed Nortech, cancel this Agreement or suspend performance.
- b. Sales and Similar Taxes; Shipping Costs; Insurance. Quoted prices for the Products do not include



Standard Terms & Conditions - Customers

sales, use, excise, ad valorem or similar taxes, duties, tariffs or charges of any kind imposed by a government authority or any shipping, delivery or insurance costs. All charges relating to the shipment, delivery or insuring of the Products during shipment will be added to the invoice for the Products and will be paid by Buyer. The amount of any present or future sales, revenue, excise, ad valorem or other tax, duties, tariffs or charges of any kind imposed by a governmental authority application to the purchase of the Products or the manufacture or sales thereof, will be added to the purchase price and will be paid by Buyer, or in lieu thereof, Buyer will provide Nortech with a tax exemption certificate acceptable to the appropriate taxing authorities.

- c. Late Payment Fee. Any amounts not paid when due will be subject to a late payment fee computed daily at a rate equal to the lesser of one and one-half percent (1.5%) per month or the highest rate permissible under applicable law. Buyer will also be liable to Nortech for all costs incurred by Nortech in its collection of any amounts owing by Buyer which are not paid when due, including collection agency fees and expenses and reasonable attorneys' fees and expenses, regardless of whether actual suit is brought against Buyer. In addition, Nortech may elect to withhold further shipments of Products or ship on a C.O.D. / C.I.A. basis until the account is current.
- d. Payment of Undisputed Invoices. Invoices rendered by Nortech covering Products not in dispute will be paid by the Buyer regardless of disputes relating to other invoices, and Buyer waives the right to assert offsets or counterclaims with respect to such invoices.
- e. Security Interest. To secure Buyer's prompt and complete payment and performance of any and all present and future indebtedness, obligations and liabilities of Buyer to Nortech, Buyer hereby grants Nortech a first-priority security interest, in all inventory of goods purchased under this Agreement by Buyer from Nortech, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. Buyer acknowledges that the security interest granted under this Section is a purchase-money security interest under Minnesota law. Nortech may file a financing statement for such security interest and Buyer will execute such statements or other documentation necessary to perfect Nortech's security interest in such Products. Buyer also authorizes Nortech to execute, on Buyer's behalf, such statements or other documentation necessary to perfect Nortech's security interest in such Products. Nortech will be entitled to all applicable rights and remedies of a secured party under applicable Law.

11) Default; Non-Waiver. In the event Buyer (i) fails to pay any amount when due Nortech or (ii) is in breach of any provision set forth in these Terms and Conditions or any related purchase order and is not cured within thirty (30) after Buyer's receipt of written notice; (iii) (a) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due, (b) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law, (c) makes or seeks to make a general assignment for the benefit of its creditors, or (d) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business; or (iv) without Nortech's prior written consent, Buyer sells, leases or exchanges a material portion of its assets, merges or consolidates with or into another Person or a change of Control occurs. "Control" (and with correlative meanings, the terms "Controlled by" and "under common Control with") means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of



the management or policies of another Person, whether through the ownership or voting securities, by contract, or otherwise. "Person" means any individual, partnership, corporation, trust, limited liability entity, unincorporated organization, association, governmental authority or any other entity.

12) Remedies. Nortech may, in addition to any and all other remedies provided by law, (a) suspend in transit any shipment of Product (whether or not pursuant to this Agreement); (b) decline to make further shipments; (c) postpone any further performance under this Agreement or any other agreement with Buyer until such default is corrected; (d) immediately cancel this Agreement; (e) declare all amounts owed by Buyer under this or any other agreement to be due and payable immediately; and/or (f) exercise all rights of a secured party. If Nortech elects to repossess any Product, Buyer will permit Nortech, with or without legal process, to enter all premises where the Products are located to remove or take possession of the same. Ten (10) days advance notice of any intended disposition of repossessed Products will be deemed reasonable.

13) Limitation of Remedies. Nortech will have the right, at its option, either to replace or repair Non-conforming Product or to credit the Buyer the purchase price applicable thereto. The foregoing remedies of replacement, repair or credit will be Buyer's sole and exclusive remedies for any breach of this agreement by Nortech and, if Nortech fails to make an effective choice as to remedy, Buyer's sole and exclusive remedy will be to return any Product purchased to this Agreement and obtain refund of the purchase price of said Product. All such returns will be by surface transportation and at Nortech's expense.

14) Limitation of Liability.

- a. NO LIABILITY FOR CONSEQUENTIAL OR INDIRECT DAMAGES. IN NO EVENT WILL NORTECH OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOSS OF DATA, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT BUYER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- b. MAXIMUM LIABILITY FOR DAMAGES. IN NO EVENT WILL NORTECH'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 LESSER OF THE INVOICE PRICE OF THE PRODUCT WITH RESPECT TO WHICH A CLAIM IS MADE OR THE TOTAL OF THE AMOUNTS PAID OR PAYABLE TO NORTECH PURSUANT TO THIS AGREEMENT IN THE SIX MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
- c. ASSUMPTION OF RISK. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY GOODS IN THE PRACTICE OF ANY PROCESS, WHETHER IN TERMS OF OPERATING COSTS, GENERAL EFFECTIVENESS, SUCCESS OR FAILURE, AND REGARDLESS OF ANY ORAL OR WRITTEN STATEMENTS MADE BY NORTECH, BY WAY OF TECHNICAL ADVICE OR OTHERWISE, RELATED TO THE USE OF THE PRODUCTS.

15) Indemnification. As between Buyer and Nortech, Buyer agrees that it will be exclusively responsible for any damage to property or death or injury to persons that are caused in whole or in part by any Product or device,



machine or other article into which a Product is incorporated as a component by the Buyer or by anyone purchasing the Product from the Buyer. Buyer will defend, indemnify and hold harmless Nortech and its officers, directors, employees, stockholders and agents from and against any liability for such damage, death or injury, regardless of whose negligence is alleged to have caused the same and regardless of whether Nortech might be held strictly liable for the same. Nortech assumes no liability for and Buyer agrees to defend, indemnify and hold Nortech harmless from and against any claims of patent or trademark infringement or the like resulting from Nortech's compliance with Product specifications.

16) Government Contracts. If the goods to be furnished under this contract are to be used in performance of a United States government contract or subcontract, Buyer will place the government contract number on Buyer's purchase order, and Buyer will provide to Nortech the clauses of the applicable government procurement regulation(s) which are mandatorily required by federal statute to be included in government subcontracts will be incorporated herein by reference. Buyer agrees to provide progress payments to the maximum extent permissible under the prime contract.

17) Export License or Other Trade Compliance Regulation. If applicable, foreign sales of products offered hereunder may require a validated export license from either the United States Department of State or the United States Department of Commerce. Order acceptance and delivery is contingent upon receipt of this validated license and may be delayed for any extra time required to obtain a license. Buyer agrees to assist Nortech in obtaining said license by providing, in writing, complete end-use information. Agreements to sell products or goods which may be subject to other trade regulations will be contingent upon Nortech's ability, or Buyer's ability, as relevant regulations may apply, to comply with such other trade regulations necessary to complete the delivery. If needed, Buyer will either comply with such trade regulations or, if it is Nortech's responsibility to comply with such trade regulations, Buyer will participate with Nortech in a collaborative and commercially reasonable manner to assist Nortech in achieving relevant or necessary approvals, as needed. Diversion contrary to any trade regulation is strictly prohibited.

18) Intellectual Property

- a. Buyer Property. Nortech acknowledges that Buyer possesses certain inventions, processes, know-how, trade secrets, improvements, other intellectual properties and other assets, including but not limited to procedures and techniques, computer technical expertise, software, and certain technical expertise and conceptual expertise in their field of interest, which have been independently developed by Buyer or its Affiliates without the benefit of any information provided by Nortech (collectively "Buyer Property"). Nortech and Buyer agree that, except as set forth herein, any Buyer Property or improvements thereto which are used, improved, modified or developed by Buyer under or during the term of the Purchase Order are the product of Buyer's technical expertise possessed and developed by Buyer or its Affiliates prior to or during the performance of the Purchase Order are the sole and exclusive property of Buyer or its Affiliates, as the case may be. Further, Buyer Property is Buyer's Confidential Information. All Buyer Confidential Information will remain the exclusive property of Buyer and Nortech will have no rights, by license or otherwise, to use Buyer's Confidential Information except as expressly provided herein.
- b. Nortech Property. Buyer acknowledges that Nortech possesses certain inventions, processes, know-how, trade-secrets, improvements, cost and pricing rates and data, other intellectual property and other assets, including but not limited to procedures and techniques, computer technical expertise, software, and certain technical expertise and conceptual expertise in the

area of medical device design, manufacturing, and servicing, which have been independently developed by Nortech or its Affiliates without the benefit of any information provided by Buyer (collectively "Nortech Property"). Buyer and Nortech agree that any Nortech Property or improvements thereto which are used, improved, modified, or developed by Nortech under or during the term of this Agreement are the product of Nortech's technical expertise possessed and developed by Nortech or its Affiliates prior to or during the performance of the Purchase Order and are the sole and exclusive property of Nortech or its Affiliates, as the case may be. Further, Nortech Property is Nortech's Confidential Information. All Nortech Confidential Information will remain the exclusive property of Nortech and Buyer will have no rights, by license or otherwise, to use Nortech's Confidential Information except as expressly provided herein.

c. Work Product and License Grant.

- i. Work Product. Any new Intellectual Property Rights developed by Nortech specifically for Buyer in connection with its services provided hereunder and incorporated into a Product will be considered to be "Work Product." Work Product will not, however, include: (i) any pre-existing Nortech Property; (ii) any new Intellectual Property Rights developed by Nortech which has general applicability and is not specific to the subject Products, which will be retained as Nortech Property; or (iii) any Intellectual Property Rights owned by or otherwise obtained from third parties ("Third-Party IP").
- ii. Assignment of Work Product. Subject to payment in full of all amounts due hereunder, Nortech: (i) hereby irrevocably transfers and assigns to Buyer any and all of its Intellectual Property Rights in and to Work Product; (ii) acknowledges that Buyer will have the right to take such actions as it deems appropriate to protect and perfect its rights to such Intellectual Property Rights, including the filing and execution of associated patent applications, the filing of registrations for copyright or trademark in its own name, and/or the use and disclosure of Work Product; and (iii) agrees to cooperate with and assist Buyer, at Buyer request and at standard Nortech hourly rates, to apply for (and to execute any applications and/or assignments reasonably necessary to obtain) such patent, copyright, trademark or other statutory protection for Work Product in Buyer's name as Buyer deems appropriate. The terms of this Section will survive any expiration or termination of this Agreement.
- iii. License to Buyer. Subject to payment in full by Buyer of amounts due, Nortech grants to Buyer a world-wide, non-exclusive and irrevocable license under the Nortech Property incorporated in the Products to use, sell and distribute the Products to its customers and end users.
- iv. Third-Party IP. Buyer acknowledges and agrees that certain Products may incorporate or be based upon Third-Party IP. Nortech does not make and expressly disclaims any representation or warranty of any kind (including warranties of non-infringement) relative to Third-Party IP. Buyer will be responsible for all third-party licenses required for its use of the Products sold by Nortech under this Agreement.

d. Residual Rights. Buyer acknowledges that Nortech is in the business of developing and using know-how for the benefit of its customers and must be able to re-use the know-how it develops

in the ordinary course of its business. Accordingly, the personnel of Nortech will, subject to the confidentiality obligations of Nortech, be free to use any general knowledge and know-how retained in their unaided memories.

- e. The following terms apply to all quotations made and sales offered by Nortech where such quotation or offer of sale includes the delivery or creation, at Buyer's request, of intellectual property, services, or acquisition of approvals from governmental authorities.
- i. Limited Rights: Buyer, under the terms herein, and unless otherwise specifically stated in Nortech's quotation or offer of sale, acquires a right to use Nortech's intellectual property created specifically for the Buyer under the established scope of Nortech's quotation or offer of sale, to the extent required to effectively use or sell the Product, obtain regulatory approval, support Product in the field, or other reasonable derivative activity, which will in no event be deemed to include manufacture. Nortech retains all rights to the intellectual property for purposes of copyright, patent, Product production, and development of derivative works.
- ii. Nortech Background Intellectual Property: Buyer, under the terms herein, and unless otherwise specifically stated in Nortech's quotation or offer of sale, acquires a right to use background intellectual property which Nortech has utilized to fulfill the scope of Nortech's quotation or offer of sale, to the extent required to effectively use or sell the Product, obtain regulatory approval, support the Product in the field, or other reasonable derivative activity which will in no event be deemed to include manufacture. Nortech retains all rights to the intellectual property for purposes of copyright, patent, Product production, and development of derivative works. Delivery of any Nortech background intellectual property to the Buyer will be limited to required background intellectual property. For clarity, manufacturing work instructions are Nortech Background Intellectual Property. "Required" will be understood to mean such intellectual property as is so essential as to render the Product unusable without access to the required background intellectual property. Nortech retains all rights with respect to determination of what background intellectual property is required to effectively use the Product or service.
- iii. Buyer Background Intellectual Property: Buyer, under the terms herein, agrees to grant Nortech a non-exclusive, worldwide, royalty-free license to use Buyer's intellectual property which Buyer may communicate to Nortech, and that is incorporated into Products, for the purpose of fulfilling Nortech's obligations under Nortech's quotation or offer of sale. The Buyer further indemnifies Nortech from all potential infringement if such Buyer furnished intellectual property is provided to Nortech without appropriate rights to use or license.
- iv. Third-Party IP. Buyer acknowledges and agrees that certain Products may incorporate or be based upon Third-Party IP. Nortech does not make and expressly disclaims any representation or warranty of any kind (including warranties of non-infringement) relative to Third-Party IP. Buyer will be responsible for all third-party licenses required for its use of the Products sold by Nortech under this Agreement.
- v. Residual Rights. Buyer acknowledges that Nortech is in the business of developing and

using know-how for the benefit of its customers and must be able to re-use the know-how it develops in the ordinary course of its business. Accordingly, the personnel of Nortech will, subject to the confidentiality obligations of Nortech, be free to use any general knowledge and know-how retained in their unaided memories.

19) General Provisions

- a. Applicable Law. The validity, performance and construction of this Agreement will be governed by the laws of the State of Minnesota, without application of its conflict of law provisions.
- b. Assignment. Buyer may not assign any agreement with Nortech without Nortech prior written consent. Nortech may assign all or any part of its rights and/or obligations under this Agreement to any Nortech subsidiary or any unrelated subcontractor without Buyer's consent.
- c. Modification and Waiver. No purported amendment, modification or waiver of any provision hereof will be binding unless set forth in writing signed by an officer of Nortech and an officer of Buyer. Any waiver will be limited to the circumstance or event specifically referenced in the written waiver document and will not be deemed a waiver of any other term of this Agreement or of the same circumstance or event upon any recurrence thereof. The failure of Nortech or Buyer to enforce any provision of this Agreement at any time will not be construed to be a waiver of such provision nor of the right of Nortech or Buyer thereafter to enforce such provision.
- d. Severability. If any provision hereof is held to be unenforceable by final order of any court of competent jurisdiction, such provision will be severed herefrom and will not affect the interpretation or enforceability of the remaining provisions hereof.
- e. Force Majeure. Nortech will not be liable to the Buyer for any failure or delay in performance if the failure or delay is caused by an event or occurrence that is beyond Nortech's reasonable control (a "Force Majeure Event"). A Force Majeure Event includes, without limitation, emergency circumstances arising during the period when these terms are in effect and which Nortech cannot reasonably counteract and which it could not have reasonably foreseen (including but not limited to flood, earthquakes, volcanic eruptions and other acts of god, wars, military actions, blockades, prohibited import or export in accordance with applicable export control laws and regulations, pandemics, epidemics, riots, domestic or foreign government regulations, strikes, lockouts, or other labor difficulties, machinery breakdowns, shortages of or availability to obtain materials, transportation, fuel, energy or raw materials). Fires and strikes will be regarded as a Force Majeure Event if they do not result from a fault-based or negligent act or omission of Nortech and/or persons controlled by it (employees, contractors, advisers, etc.).