KE2 Therm Solutions Inc. herein referred to as "Seller" and the customer or entity purchasing products ("Products") and/or services ("Services") from Seller is herein referred to as "Buyer." Seller’s acceptance of Buyer’s order is expressly conditioned on Buyer’s assent to all of the terms and conditions herein. These terms and conditions, whether set forth in any Seller’s quotation, proposal, acknowledgment, response to or acceptance of Buyer’s request for quotation, purchase orders, shipping instructions, or other documentation containing terms at variance with or in addition to those set forth herein. Any modifications or additional terms are specifically rejected by Seller. No waiver by either party with respect to any breach of any of these terms and conditions shall be intended to be or construed as a waiver of any other breach of any of these terms and conditions by the other party. No waiver by either party shall be deemed to be or construed as a limitation on, or modification of, any rights of the respective party or the terms and conditions herein. Seller reserves the right to make partial shipments.

1. PRICES: Prices for Products and/or Services, whether specified in Seller’s price list or schedule, written quotation, or invoice from Seller shall be only in the State of Missouri, in the County of St. Louis, for orders placed with KE2 Therm Solutions Inc. in North America. No action, regardless of form, arising out of transactions relating to these terms and conditions of sale may be brought by either party more than two (2) years after the cause of action has accrued.

2. TAXES: Any current or future tax or governmental charge (or increase in same) affecting Seller’s costs of production, sale, delivery or shipment, or which Seller is otherwise required to pay or collect in connection with the manufacture, sale, lease, storage, or use of the Products, shall be for Buyer’s account and shall be added to the price.

3. TERMS OF PAYMENT: With Seller’s approval, payment terms are net thirty (30) days from date of Seller’s invoice in the currency designated by KE2 Therm Solutions Inc. Seller shall have the right, among other remedies, either to terminate this sale or to stop Products in transit or to suspend further performance under these terms and conditions and/or any agreements with Buyer in the event Buyer fails to make any payment when due, which other agreements Buyer and Seller have agreed to. Buyer shall be liable to Seller for all interest, including attorneys’ fees, relating to the collection of past due amounts. If any payment owed to Seller is not paid when due, it shall bear interest, at a rate to be determined by Seller, which shall not exceed the maximum rate permitted by law, from the date on which it is due until the date it is paid. If Buyer’s financial condition becomes unsatisfactory to Seller, cash payments or security shall be required by Seller prior to shipment or for future deliveries for Products thereafter delivered. If such cash payment or security is not provided, in addition to Seller’s other rights and remedies, Seller may discontinue deliveries.

4. SHIPMENT AND DELIVERY: Unless Seller’s quotation specifies otherwise, shipments of Products are made and delivery shall occur F.O.B. Seller’s shipping point. Any claims for shortages or damages suffered in transit are the responsibility of Buyer and shall be submitted by Buyer directly to the carrier. Shortages or damages must be acknowledged and signed for at the time of delivery. Buyer shall inspect the Products delivered to it by Seller immediately upon receipt, and, any course of dealing to the contrary notwithstanding, failure of Buyer to give Seller notice of any claim within thirty (30) days after receipt of such Products shall be an unconditional acceptance of such Products. While Seller will make reasonable commercial efforts to ship in accordance with the delivery date(s) acknowledged or quoted by Seller, all shipping dates are approximate and not guaranteed. Seller reserves the right to make partial shipments.

5. LIMITED WARRANTY: SUBJECT TO THE LIMITATIONS OF SECTION 6, AND UNLESS OTHERWISE SPECIFIED BY SELLER IN WRITING, SELLER WARRANTS THAT THE GOODS MANUFACTURED BY SELLER WILL BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP AND SUBSTANTIALLY MEET SELLER'S PUBLISHED SPECIFICATIONS AT THE TIME OF SHIPMENT UNDER NORMAL USE AND REGULAR SERVICE AND MAINTENANCE FOR THE PERIOD OF ONE (1) YEAR FROM DATE OF USER PURCHASE DETERMINED BY SELLER INVOICE DATE, OR (18) EIGHTEEN MONTHS FROM DATE OF SHIPMENT FROM MANUFACTURER, WHICHEVER IS EARLIER. THIS LIMITED WARRANTY IS VOID IF DEFECT(S) RESULT FROM FAILURE TO HAVE THIS UNIT INSTALLED BY AN INDUSTRY CERTIFIED/LICENSED HVAC/R CONTRACTOR. UNLESS OTHERWISE STATED IN A SEPARATE SOFTWARE LICENSE AGREEMENT, SELLER MAKES NO WARRANTY AS TO ANY SOFTWARE. THE WARRANTIES SET FORTH IN SECTIONS 5 AND 7 ARE THE SOLE AND EXCLUSIVE WARRANTIES GIVEN BY SELLER WITH RESPECT TO THE GOODS AND SOFTWARE AND ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHETHER OR NOT THE PURPOSE OR USE HAS BEEN DISCLOSED TO SELLER IN SPECIFICATION, REQUIREMENT, PROPOSAL, QUOTE, OR PURCHASE AND/OR SERVICES, AND BUYER'S USE OR PURPOSE, PRE-PRODUCTION (PROTOTYPE, ENGINEERING VERIFICATION TEST, OR DESIGN VERIFICATION TEST) UNITS ARE SOLD "WHERE IS, AS IS, WITH ALL FAULTS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR INTENDED PURPOSE.

6. LIMITATION OF REMEDY AND LIABILITY: The sole and exclusive remedy for breach of any warranty hereunder (other than the warranty provided under section 7) shall be limited to repair, correction or replacement, or refund of the purchase price under section 5. Seller shall not be liable for damages caused by delay in performance and in no event, regardless of the form of the claim or cause of action (whether based on contract, procurement, negligence, strict liability, tort or otherwise), shall Seller’s liability to Buyer and/or its customers exceed these the price paid by Buyer for the specific products provided by the seller rise to the claim or cause of action. Buyer agrees that in no event shall Seller’s liability to Buyer and/or its customers extend to include incidental, consequential or punitive damages. The term “Consequential damages” shall include, but not be limited to, loss of anticipated profits business interruption, loss of revenue, cost of capital or loss or damage to property or equipment. It is expressly understood that any technical advice furnished by Seller with respect to the use of products is given without charge, and seller assumes no obligation or liability for the advice given, or results obtained, all such advice being given and accepted at Buyer’s risk.

7. PATENTS AND COPYRIGHTS: Subject to the limitations of Section 6, Seller warrants that the Products manufactured by Seller, except as are made specifically for Buyer according to Buyer’s specifications, do not infringe any valid U.S. patent or copyright in existence as of the date of shipment. This warranty is given upon the following conditions: (i) that Buyer promptly notifies Seller of any claim or suit or threat thereof involving Buyer in which such infringement is alleged; (ii) that Buyer provides all reasonable assistance and cooperation requested by Seller in settling or defending against the claim or suit; and (iii) that Buyer permits Seller to control completely the defense, settlement or compromise of any such allegation of infringement. This warranty only applies to infringement arising out of operation of the Products according to Seller’s specifications. Buyer agrees that Seller shall not be liable for infringement, and that Buyer shall fully indemnify Seller therefore: (i) if infringement is based upon use of the Products in combination with or as a part of Buyer’s equipment, the equipment so used being made or designed by Buyer; (ii) if the Products were not designed by Seller; or (iii) if the Products were designed by Buyer or were modified by or for Buyer in a manner to cause them to become infringing. In the event any such Products are held to infringe any such U.S. patent or copyright in any such suit, and the use of such Products is enjoined, or in the event that Seller elects to compromise or settle the claim, Seller shall have the right, at its option and expense, to procure for Buyer the right to continue using such Products, to replace them with non-infringing Products, to modify the Products to become non-infringing, or to grant Buyer a credit for the depreciated value of such Products and accept return of them. In the event of the foregoing, Seller may, at its option, cancel this sale as to future deliveries of such Products, without liability.

8. EXCUSE OF PERFORMANCE: Seller shall not be liable for delays in performance or for non-performance due to acts of God; war; fire; flood; weather; sabotage; strikes or labor disputes; civil disturbances or riots; governmental requests, restrictions, allocations, laws, regulations, orders or actions; unavailability of or delays in transportation; inability to secure materials; default or delay of suppliers; acts of Buyer; or unforeseeable circumstances or events caused beyond Seller’s reasonable control. Deliveries or other performance may be suspended for an appropriate period of time, or cancelled, at Buyer’s request, if such suspension or cancellation is necessary to permit Buyer to obtain materials which are required to be used by Buyer in the manufacture or sale of the Products to Buyer. Buyer shall pay Seller the reasonable costs of the materials so obtained, all such costs allocable to the manufacture of the Products or materials so obtained.

9. CANCELLATION AND RESCHEDULING: Buyer may reschedule or cancel its order only in accordance with Seller’s then current Cancellation and Rescheduling Policy. Buyer agrees to pay any applicable cancellation or rescheduling charges. Such charges may include, among other things, all costs and expenses incurred to cover commitments made, overhead, and a reasonable profit allocable to work in process. Seller’s determination of all such charges shall be conclusive. Standard cancellation charge is 25% of amount of cancelled items.

10. CHANGES: Orders shall not be subject to cancellation or change by Buyer for any reason except Seller’s written consent and upon terms that will indemnify, defend and hold Seller harmless against all direct, incidental and consequential loss or damage. Seller may change product features, specification, designs and availability with notice to the Buyer.

11. INDEMNIFICATION: Buyer shall indemnify, defend and hold harmless Seller and its assigns, officers, agents, employees, contractors or assigns from and against any and all liabilities, losses, expenses, liens, claims, demands and causes of action arising out of any negligent act or omission of Buyer, its officers, agents, employees, contractors or assigns.

12. ASSIGNMENT: Buyer shall not assign its rights or delegate its services hereunder or any interest herein except with the prior written consent of Seller, and any such assignment, without such consent, shall be void.

13. U.S. EXPORT CONTROL REGULATIONS: All Products sold to Buyer are subject to the export control laws of the United States and Buyer agrees not to re-sell or divert any Products contrary to such laws.

14. TOOLING: Tool, die, and pattern charges, if any, in addition to the price of the Products and are due and payable in accordance with Seller’s quotation. All such tools, dies and patterns shall be and remain the property of Seller for tools, dies and patterns not to be used, and patterns to be rights to possession of the tools, dies, or patterns or prevent their use by Seller for other purchasers, except as otherwise expressly provided by Seller and Buyer in writing with reference to this provision.

15. GENERAL PROVISIONS: These terms and conditions supersede all other communications, negotiations and prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, rescission, discharge or waiver of any of these terms and conditions shall be binding upon Seller, unless it is made in writing and it is signed on Seller’s behalf by a duly authorized representative. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding upon Seller unless it is made in writing and it is signed on Seller’s behalf by a duly authorized representative. No acknowledgment, response to or acceptance of Buyer’s request for quotation, purchase orders, shipping instructions, or other documentation containing terms at variance with or in addition to those set forth herein. Any modifications or additional terms are specifically rejected by Seller. No waiver by either party with respect to any breach of any of these terms and conditions shall be deemed to be or construed as a waiver of any other breach of any of these terms and conditions by the other party. No other waiver of any of these terms and conditions shall be deemed to be or construed as a modification of any other terms and conditions. Seller’s liability for damages shall be limited to repair, correction or replacement, or refund of the purchase price and shall be limited to the price paid by Buyer for the specific products provided by the seller rise to the claim or cause of action. Buyer agrees that in no event shall Seller’s liability to Buyer and/or its customers extend to include incidental, consequential or punitive damages. The term “Consequential damages” shall include, but not be limited to, loss of anticipated profits business interruption, loss of revenue, cost of capital or loss or damage to property or equipment. It is expressly understood that any technical advice furnished by Seller with respect to the use of products is given without charge, and seller assumes no obligation or liability for the advice given, or results obtained, all such advice being given and accepted at Buyer’s risk.

Legal - Terms & Conditions of Sale (ID 101518/11/2014)