



## Terms and Conditions of Sale

### 1. SCOPE

These Terms and Conditions of Sale (“Terms”) govern the sale of goods and services (“Goods”) by GASORI USA Incorporated (“GASORI USA”), and shall apply to all quotations offered, purchase orders accepted, or any direction to proceed with engineering, procurement, manufacture or shipment of any said Goods, or acceptance of all or part of such Goods, or payment of all or part of such Goods. GASORI USA desires to provide its customers (“Buyers”) with prompt and efficient service; however, to negotiate individually the Terms of each sales order would substantially impair GASORI USA’s ability to provide such service. These Terms represent the entire sales agreement ("Agreement") between GASORI USA and Buyer as to purchases made by Buyer from GASORI USA. GASORI USA’s performance is made exclusively conditional on and limited to the provisions of the Terms set forth herein, notwithstanding contrary or additional terms or conditions on Buyer’s purchase order or any Buyer generated procurement documents. **THESE TERMS SHALL TAKE PRECEDENCE OVER BUYER’S CONFLICTING TERMS AND CONDITIONS TO WHICH NOTICE OF OBJECTION BY GASORI USA IS HEREBY GIVEN.** Acceptance of Buyer’s purchase order is conditioned upon Buyer’s acceptance of these Terms, irrespective of whether Buyer accepts these Terms by written acknowledgement, by implication, or by retention of, or payment for Goods ordered hereunder. These Terms apply to all sales made by GASORI USA except to the extent the Terms conflict with a written agreement signed by GASORI USA and Buyer. In the absence of such additional signed agreement between the parties, commencement of performance and/or delivery shall be for Buyer’s convenience only and shall not be deemed or construed to be acceptance of Buyer’s terms and conditions, or any part of them. All correspondence or written agreements pertaining to any part of these Terms shall be in the English language.

### 2. PRICING AND QUOTATIONS

Published prices are subject to change without notice. Prices quoted are for the Goods described on the face hereof only and do not include technical data, proprietary rights of any kind, patent rights, qualification, environmental or other than the manufacturer’s standard tests. All quotations are subject to the Terms contained herein unless otherwise agreed to in writing by GASORI USA.

Quotations issued by GASORI USA field Sales Representatives are not offers and should not be construed as offers to sell. Such quotations issued are not binding on GASORI USA until expressly confirmed in writing by the GASORI USA main office. Unless otherwise stated in the written quotation, quoted prices are firm for thirty (30) days from the date of GASORI USA's written quotation; otherwise, prices are as in effect at the time of shipment. Prices are quoted exclusive of taxes, transportation, impositions and fees, other charges, including sales, use, excise, value-added and insurance. Buyer will pay any and all shipping charges, premiums, taxes, fees, duties, documentation, handling and other charges related thereto and shall hold GASORI USA harmless there from; provided that, if GASORI USA in its sole discretion, chooses to make any such payment, Buyer shall reimburse GASORI USA, in full, upon demand. Prices include GASORI USA's standard packaging only. The cost of any special packing or special handling caused by Buyer's requirements or requests shall be added to the amount of the order.

### **3. ORDER ACCEPTANCE**

Any quotation of GASORI USA is subject to and shall not become binding upon GASORI USA until actual receipt by GASORI USA of Buyer's written order based on all Terms herein, without qualification, within thirty (30) days after the date hereof. All orders shall be subject to acceptance by GASORI USA; insofar as these Terms conflict with any terms and conditions in Buyer's order, these Terms shall govern. No order shall be binding upon GASORI USA until GASORI USA sends Buyer acceptance and confirmation of such order through electronic mail, facsimile, or other written communication.

### **4. CANCELLATION OR CHANGE ORDER**

Buyers may request a change in Goods or delivery by submitting to GASORI USA a written change order request signed by Buyer detailing the scope of such change to be accepted or rejected by GASORI USA in its sole discretion. Buyers desiring to cancel, in whole or in part, an order once accepted by GASORI USA, must notify GASORI USA of such request in writing within thirty (30) days prior to shipment. Upon written acceptance by GASORI USA of any such cancellation request, Buyer shall be liable for all costs, expenses and charges related to such order based upon the percentage of completion of all work performed through the date of acceptance of cancellation including administrative and handling costs and any damages sustained by GASORI USA. Orders may not be cancelled subsequent shipping and Buyer is liable for all costs, expenses, and fees sustained by GASORI USA for any refusal of acceptance of delivery of Goods by Buyer.

### **5. PAYMENT TERMS**

Buyer agrees to pay for the Goods according to GASORI USA's payment terms. In GASORI USA's sole discretion, first-time orders or international orders are payable in full, in advance, and in collected funds. An application for credit may be submitted to GASORI USA's Accounting Department for review and approval, and GASORI USA reserves the right, in its sole and absolute discretion, to approve or deny credit for any reason whatsoever.

Upon granting terms, and unless otherwise agreed to in writing by GASORI USA, the terms of sale are net thirty (30) days from date of invoice, made payable in U.S. currency. GASORI USA reserves the right in its absolute discretion to require alternative payment terms, including, without limitation, letter of credit or payment in advance. All remittance shall be to GASORI USA, Inc. P.O. Box 75200, Cincinnati, OH 45275. In addition, Buyer will be deemed to have accepted an invoice upon the 15th day from the date of invoice and no further objections to the invoice will be permitted or accepted. If GASORI USA otherwise specifies in writing payment terms longer than thirty (30) days from the date of invoice, then (1) the invoice will be deemed accepted upon the 30th day from the date of invoice and no further objections will be permitted or accepted; and (2) Buyer must certify within thirty (30) days from the date of invoice that payment has been submitted for processing. GASORI USA may invoice each shipment separately and each shipment shall be considered a separate and individual sales agreement. Buyer agrees to pay such invoice pursuant to the terms without the benefit of setoff or deduction. Invoices not paid when due will bear fees to date of payment at the annual rate of eighteen (18%) percent or such lower rate as may be the maximum permitted by law. GASORI USA may pursue any legal and equitable remedies, in which event GASORI USA will be entitled to reimbursement of costs for collection and reasonable attorneys' fees in any action to collect past due amounts. GASORI USA reserves the right to establish and/or change credit and payment terms, or suspend its performance extended to Buyer when, in GASORI USA's sole opinion, Buyer's financial condition or previous payment record warrants such action. Buyer, in order to provide security for payment of the full price of Goods furnished hereunder, grants GASORI USA a purchase money security interest in said Goods. Buyer agrees to execute any document or furnish information necessary to perfect this security interest. Further, on delinquent accounts, GASORI USA shall not be obligated to continue any or all performance under these Terms or any other written agreement with Buyer.

## **6. SECURITY INTEREST**

GASORI USA retains a purchase money security interest in the Goods delivered to Buyer, to secure payment of all amounts due under these Terms. Buyer's failure to pay all amounts hereunder in full when and as due shall constitute a default hereof and shall give GASORI USA all rights of a secured party. GASORI USA shall not be required to waive any lien in advance of payment. Buyer agrees from time to time, to take any act and execute and deliver any document (including, without limitation, financing statements) reasonably requested by GASORI USA to transfer, create, perfect, preserve, protect and enforce this purchase money security interest. No Goods furnished by GASORI USA shall become a fixture by reason of being attached to real estate.

## **7. SALES TAX**

Prices and quotations do not include federal, state or local excise, sales, use or other taxes now or hereinafter enacted, which are applicable to the Goods sold hereunder (excluding only taxes based on GASORI USA's income), which tax will be added by GASORI USA to the sales price when GASORI USA has the legal obligation to collect the same and will be invoiced to and paid by Buyer,

unless Buyer provides GASORI USA with a proper tax exemption certificate. In the event GASORI USA is required to collect or pay any such tax, fee or charge at the time of sale or thereafter, Buyer shall reimburse GASORI USA therefore.

## **8. TRANSPORTATION**

Unless otherwise agreed to in writing by GASORI USA, all domestic shipments by GASORI USA shall be FCA GASORI USA, (the shipping point). All international shipments shall be Ex Works per the International Chamber of Commerce's INCO TERMS. Delivery of the Goods to the carrier shall constitute delivery to Buyer as Buyer's agent and risk of loss or damage shall thereupon pass to Buyer. GASORI USA shall retain a purchase money security interest in the Goods until Buyer's final payment to GASORI USA for the Goods. BUYER SHOULD INSPECT DELIVERY OF VISIBLY DAMAGED PACKAGING AND/OR CRATING SHIPMENT MAY SUSTAIN DURING HANDLING BY CARRIER AND BUYER MUST FILE ANY CLAIMS FOR LOSS, DAMAGE, OR MISDELIVERY THEREAFTER WITH THE CARRIER. Acceptance of such visibly damaged packaging and/or crating, or acceptance of packaging and/or crating where GASORI USA's crate seals or strapping is not intact, excludes GASORI USA from any and all liability arising presently or in the future of concealed damaged Goods claims pursuant to Inspection and Acceptance paragraph. Buyer should notify the carrier and GASORI USA immediately upon receipt of damaged shipment and its intent to file claims with the transportation carrier. Buyer acknowledges that delivery dates provided by GASORI USA are estimates only and GASORI USA shall not be liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of GASORI USA, nor shall the carrier be deemed an agent of GASORI USA. In the event of delay caused by such event, the date of delivery shall be extended for a period equal to the time lost as a consequence of the delay in delivery without subjecting GASORI USA to any liability or penalty. Delivery of a quantity, which varies from the quantity specified, shall not relieve Buyer of the obligation to accept delivery and pay for the Goods delivered. Delay in delivery of one installment shall not entitle Buyer to cancel other installments.

## **9. INSPECTION AND ACCEPTANCE**

Buyer agrees to inspect the Goods immediately upon receipt and prior to any installation or use of such Goods. Unless Buyer provides written notice to GASORI USA for shortages or incorrect shipment in the Goods within three (3) days after Buyer's receipt of shipment, such Goods shall be deemed finally inspected and accepted by Buyer. Failure to notify GASORI USA in writing of any concealed damages sustained in transport pursuant to Paragraph 8 herein shall constitute a waiver of any claims of concealed damaged Goods by Buyer hereunder these Terms. Failure to notify GASORI USA in writing of quantity shortages or incorrect shipments within such three (3) day period shall constitute a waiver of any claims of shortages, incorrect shipments, or concealed damages and Buyer waives all rights to return such Goods on the basis of nonconformity of Buyer's order. Where Buyer delivers those certain Goods to its customers or any third party, GASORI USA's obligation under this provision shall be for the benefit of Buyer's customer and shall extend to fifteen (15) days after such tender of delivery.

## **10. RETURN MATERIAL AUTHORIZATION (RMA)**

IN NO EVENT SHALL CUSTOM MANUFACTURED AND/OR SPECIAL ORDER GOODS BE RETURNED. Goods received may not be returned by Buyer except by prior written agreement with GASORI USA. Returns are only authorized pursuant to Paragraphs 9 and 16 respectively herein. In all events, a Return Material Authorization ("RMA") number must be secured from GASORI USA before such Goods can be returned. The RMA is valid for thirty (30) days only from the date the authorization is issued. In addition, RETURNS WILL BE CREDIT ONLY unless otherwise remedied by GASORI USA pursuant to Paragraph 16 herein. Obtaining a RMA does not guarantee credit. GASORI USA reserves the sole right to determine the amount of credit to be issued on all Goods returned. All returns are subject to a minimum re-stocking charge of twenty-five (25%) of the selling price, plus all transportation charges and inspection and acceptance by GASORI USA. No unauthorized returns will be accepted within GASORI USA facilities. To obtain an RMA, Buyer must specify the reason for the return. Only new, unused, standard, currently manufactured GASORI USA products will be considered for return and credit. GASORI USA will, in its sole discretion, make determinations on warranty claims following criteria set forth in Paragraph 16 herein. No credit allowance on defective items will be made and no replacement for defective items will be shipped in any event unless the alleged defective items are, among other things, established to GASORI USA's satisfaction after suitable inspection by GASORI USA. The re-stocking fee shall then evaluate on a case-by case-basis and can be assessed up to 100% in the sole discretion of GASORI USA.

## **11. FORCE MAJEURE**

Buyer agrees that GASORI USA shall not be liable for any damage or penalty for delay in delivery or for failure to perform its obligations due to cause beyond its reasonable control, including, but not limited to, product allocations, material shortages, labor disputes, transportation delays, unforeseen circumstances, acts of God, acts or omissions of other parties, acts or omissions of civil or military authorities, governmental priorities, fires, strikes, floods, severe weather conditions, computer interruptions, terrorism, epidemics, quarantine restrictions, riots or war. GASORI USA's time for delivery or performance will be extended by the period of such delay, or GASORI USA may, at its opinion, cancel any order, or remaining part thereof, without liability by giving written notice to Buyer.

## **12. INSTALLATION WORK**

Buyer agrees that unless specifically quoted and agreed to, GASORI USA prices for Goods do not include an allowance for installation or installation services and/or final on-site testing, training, or adjustment. Any such service shall be billable to Buyer as a separate item. Buyer agrees that if GASORI USA is contracted to provide for installation of some or all of the Goods, Buyer shall have all things in readiness, including but not limited to equipment, connections and facilities, for installation at the time the Goods are delivered.

### **13. PROPRIETARY RIGHTS**

Buyer agrees that the sale of Goods hereunder shall in no way be deemed to confer upon Buyer any right, interest or license in any patents or patent applications or design copyrights GASORI USA may have covering the Goods. GASORI USA retains for itself all proprietary rights in and to all designs, engineering details, and other data and materials pertaining to any Goods supplied by GASORI USA and to all discoveries, inventions, patents and other proprietary rights arising out of the work done by GASORI USA in connection with the Goods or with any and all Goods developed by GASORI USA as a result thereof, including the sole right to manufacture any and all such Goods. Buyer warrants that it will not divulge, disclose, or in any way distribute or make use of such information, and that it will not manufacture or engage to have manufactured such Goods.

### **14. INSTRUMENTS OF SERVICE**

Buyer agrees that designs, plans, specifications, reports and similar documents prepared by GASORI USA are instruments of professional service and may not be altered without GASORI USA 's prior written approval. Buyer warrants that GASORI USA 's instruments of service will be used only as submitted by GASORI USA. Buyer waives any claims against GASORI USA, and shall indemnify, defend and hold harmless, GASORI USA from any claim or liability for injury or loss arising from unauthorized alterations of GASORI USA 's instruments of service. Buyer shall compensate GASORI USA for any time or expense incurred by GASORI USA defending any such claim.

### **15. TECHNICAL ASSISTANCE OR ADVICE**

Buyer agrees that any and all technical assistance or advice offered by GASORI USA in regard to the use of Goods or provided in connection with Buyer's purchase order is free of charge and only as an accommodation to Buyer. GASORI USA shall have no obligation to provide any technical assistance or advice to Buyer and if any such assistance or advice is provided, such fact will not obligate GASORI USA to provide any further or additional assistance or advice. GASORI USA shall not be held liable for the content or Buyer's use of such technical assistance or advice nor shall any statement made by any of GASORI USA 's representatives in connection with the Goods constitute a representation of warranty, express or implied.

### **16. WARRANTY AND LIMITED LIABILITY**

GASORI USA warrants to Buyer that the Goods manufactured by GASORI USA shall be free of defective material or faulty workmanship for a period of one (1) year from the date of shipment of such Goods by GASORI USA ("Warranty Period") and shall conform to specifications, if any, as interpreted by the instruments of service, if any, so long as such Goods have been properly installed (if not installed by GASORI USA), serviced and used under conditions that are normal and prudent in Buyer's industry and in accordance with GASORI USA instructions. The liability of GASORI USA for any breach of the foregoing warranty shall not extend to dismantling, installing or reinstalling, but shall be limited to

repairing or replacing, at GASORI USA's option, said defective items or parts of said Goods without charge, within a reasonable time after receipt of written notice from Buyer of any such defective Goods, provided that such notice is received by GASORI USA within the Warranty Period. Buyer and GASORI USA expressly agree that Buyer's sole and exclusive remedy against GASORI USA with respect to defective Goods shall be for the repair or replacement (at GASORI USA's option) of defective Goods as provided herein. Buyer shall not in any event be entitled to, and in no event shall GASORI USA be liable for any claim for loss or damage arising out of the supplying of any Goods to Buyer, whether based on contract, warranty, tort, including negligence, or other grounds, other than the purchased price for such Goods. Allegedly defective Goods must not be returned except after receipt of authorization pursuant to Paragraph 10 hereof. Without limiting the generality of the foregoing, GASORI USA does not warrant any of its components or systems used in conjunction with any systems manufactured by others without written consent by GASORI USA of such warranty. Buyer assumes any and all risks and liability for the results obtained by use of the Goods in combination with any other equipment or materials or in the practice of any system. Buyer agrees that GASORI USA is not responsible for any conditions over which GASORI USA has no control. GASORI USA's warranty does not apply to any Goods that have been subjected to misuse, mishandling, neglect, improper maintenance, accident, improper installation, modification (including by not limited to use of unauthorized parts of attachments), adjustment or repair by anyone other than GASORI USA or one of GASORI USA's authorized agents. However, with express prior written consent Buyer is permitted to represent to its customer that such customer may rely on this warranty, GASORI USA specifically disclaims any other warranties, express, implied, or statutory; including without limitation any implied warranty of fitness for a particular purpose or implied warranty of merchantability.

GASORI USA offers certified installation services. These services must be separately and specifically contracted for the scope of the installation project. When GASORI USA provides contracted installation services, a warranty of one (1) year on the installation will apply. The warranty will begin on the date of completed installation. In the case of delayed start up by the Buyer, GASORI USA in its sole discretion will determine the completion date. The Installation warranty will only apply if proper GASORI USA maintenance schedules are being/have been followed by the Buyer, the installation has not been modified other than as specifically agreed in writing by GASORI USA and that the system parameters have not changed.

Buyer shall not in any event be entitled to, and in no event shall GASORI USA be liable for any claim for loss or damage arising out of the supplying of any Installation services to Buyer, whether based on contract, warranty, tort, including negligence, or other grounds, other than the purchased price for such Installation services. Without limiting the generality of the foregoing, GASORI USA does not warrant any of its components or systems used in conjunction with any systems manufactured by others without written consent by GASORI USA of such warranty. Buyer assumes any and all risks and liability for the results obtained by use of the installation in combination with any other equipment or materials or in the practice of any system. Buyer agrees that GASORI USA is not responsible for any conditions over which GASORI USA has no control.

GASORI USA 's warranty does not apply to any Installation that has been subjected to misuse, mishandling, neglect, improper maintenance, accident, improper installation, modification (including by not limited to use of unauthorized parts of attachments), adjustment or repair by anyone other than GASORI USA or one of GASORI USA 's authorized agents. However, with express prior written consent Buyer is permitted to represent to its customer that such customer may rely on this warranty, GASORI USA specifically disclaims any other warranties, express, implied, or statutory; including without limitation any implied warranty of fitness for a particular purpose or implied warranty of merchantability.

## **17. INDEMNITY**

Buyer agrees to indemnify, defend and hold harmless GASORI USA from and against any and all damages (even if GASORI USA has been advised of the possibility of such damages), liabilities, losses, costs, expenses and fees (including reasonable attorneys' fees and court costs), including but not limited to, all losses related to property damage, loss of profits or revenues, loss of use of any property, cost of capital, cost of purchased or replacement Goods (as related to Paragraph 16 herein) or temporary equipment, personal or bodily injury, or death, from any suits, claims, counterclaims, demands, judgments, and other actions (each a "Claim"), regardless of whether a Claim is based on theories of contract, tort, negligence, strict liability, warranty, indemnity, contribution, statute or otherwise, including without limitation, all Claims relating to injury to and death of any and all persons and for loss of and/or damage to property arising from or in connection with (a) Buyer's efforts to promote, market, sell and distribute the Goods, including, without limitation, any negligent, reckless or wanton acts of omissions of its employees, representatives and agents arising in connection with or pursuant to those sales efforts, (b) the use, handing, repair, alterations, adjustment, operation or modification of the Goods by any of Buyer's employees, representatives or agents, and (c) any claims of patent, trademark or other intellectual property infringement for Goods manufactured in accordance with Buyer's specifications.

## **18. CONTROLLING LAW**

This Agreement shall be interpreted and construed in accordance with the laws of the Commonwealth of Kentucky. Any and all claims, controversies, and causes of action arising out of or relating to this Agreement, or the negotiation, execution or performance of this Agreement, whether sounding in contract, tort, or statute, including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement, or as inducement to enter into this Agreement, shall be governed by the laws of the Commonwealth of Kentucky, including its statutes of limitations, without giving effect to any conflict-of-laws or other rule that would result in the application of the laws of a different jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Each of the parties hereto hereby irrevocably consents and submits to the exclusive jurisdiction of the state and federal courts of the Commonwealth of Kentucky in connection with any suit, action, or other proceeding concerning this Agreement.



## 19. MISCELLANEOUS

These Terms constitute the entire sales Agreement between GASORI USA and Buyer with respect to the sale of Goods and transactions by GASORI USA herein and shall not be modified or rescinded, except by a writing signed by GASORI USA and Buyer. These Terms supersede all prior oral and written quotations, communications, agreements and understandings between GASORI USA and Buyer with respect to the Goods and transactions described herein. The obligations, rights, terms and conditions hereof shall be binding on GASORI USA and Buyer hereto and their respective successors and assigns. Any changes hereto must be in writing signed by both GASORI USA and Buyer. In the event any provision of this Agreement is deemed unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. GASORI USA and Buyer expressly agree that Buyer is an independent contractor in the performance of the order and is solely responsible for its employees and agents and will indemnify GASORI USA for any and all claims, liabilities, damages, debts, settlements, costs of attorneys' fees, and expenses of any type whatsoever arising on account of Buyer's activities, including, but not limited to authorized representations or warranties (or the failure to disclaim effectively all warranties and liabilities on behalf of GASORI USA to the same extent disclaimed herein) to its customers.