

1. Contract Formation.

1.1 Offer. Grand Valley Manufacturing Company's (GVMC) proposal form and/or GVMC'S proforma invoice quote (collectively, the "Proposal") constitutes an offer for the sale of goods (the "Goods") and includes all the terms and conditions contained herein (the "Terms and Conditions").

1.2 Acceptance. Any purchase order or other form of acceptance issued by the Buyer in response to a Proposal from GVMC shall result in a contract for the purchase of the Goods at the price quoted in GVMC'S Proposal and shall be subject to these Terms and Conditions. GVMC does not accept any terms contained in any purchase order or other documents issued by Buyer which are different from, conflict with, modify and/or add to these Terms and Conditions. GVMC'S execution of any document issued by the Buyer shall constitute only an acknowledgement of receipt thereof, and shall not be construed as an acceptance of any of the terms therein. Unless Buyer shall have set forth each specific objection to these Terms and Conditions in a separate writing signed and dated by Buyer and delivered to GVMC contemporaneously with Buyer's purchase order or other acceptance document, Buyer shall be deemed to have accepted all of these Terms and Conditions. Buyer's issuance of a purchase order or other document which purports to reject some or all of these Terms and Conditions by virtue of Buyer's standard form language, or otherwise, shall not be sufficient objection. Where Buyer specifically objects to any of these Terms and Conditions, no contract shall be formed unless and until GVMC agrees to accept in writing Buyer's proposed modifications to these Terms and Conditions.

1.3 Entire Agreement. The Proposal and these Terms and Conditions shall constitute the entire understanding and agreement (the "Contract") between Buyer and GVMC. Any representation, promise, course of dealing, course of performance, custom or trade usage will not be binding upon either party. This Contract may not be amended or modified except by a writing executed by both parties.

2. Purchase and Sale. Subject to these Terms and Conditions, Buyer agrees to buy, and GVMC agrees to sell, the Goods, for the purchase price specified in the Proposal. Unless otherwise agreed in writing by the parties, Buyer assumes all responsibility for: (1) set-up, start-up, and installation; (2) safety equipment used with the Goods or by Buyer's employees or any third party handling or working with the Goods; and (3) signage related to the proper use and/or installation of the Goods. GVMC reserves the right to substitute substantially comparable goods for the Goods.

3. Taxes. Buyer shall be responsible for, and shall pay, any taxes (sales, excise, use, etc.) and any export or import duties which may be applicable to the sale and/or delivery of the Goods and to the performance of any warranty work on the Goods as may be required under Section 6.6. Buyer shall indemnify and hold GVMC harmless from any claim, loss, damage, liability or expense incurred with regard to the payment of any such taxes or duties.

4. Payment: Security Interest.

4.1 Generally. Buyer shall pay the purchase price, all applicable taxes, freight charges, and all other applicable charges in full, in U.S. Dollars, without any deduction for claims, set-offs or recoupment on account of this Contract or any other matter between the parties within the time periods set forth below in Section 4.2 and Section 4.3, below. Payment shall not be contingent upon installation or upon field tests. If payment is delayed beyond the date on which it is due, interest shall accrue and be payable by Buyer on the unpaid balance at a rate of one and one-half percent (1 1/2%) per month.

4.2 Payment - Domestic Shipments Only. Unless otherwise specified by GVMC in the Proposal, the Buyer shall pay the purchase price within thirty (30) days from the date of shipment. If shipment is delayed by Buyer, payment shall be due thirty (30) days from the date GVMC notifies Buyer that the Goods are ready for shipment. This Section 4.2 shall apply to domestic shipments only.

4.3 Payment - International Shipments Only. Unless otherwise specified by GVMC in the Proposal, the Buyer shall pay a non-refundable deposit of thirty percent (30%) of the purchase price upon the execution of this Contract with the balance due and payable at least five (5) business days before the date of shipment. The Proposal may specify that Buyer shall pay the purchase price and all applicable charges with an Irrevocable and Confirmed Letter of Credit or upon such other payment terms, as GVMC deems acceptable, in its sole discretion. If shipment is delayed by Buyer, payment of the balance of the purchase price shall be due within fifteen (15) business days from the date GVMC notifies Buyer that the Goods are ready for shipment. This Section 4.3 shall apply to international shipments only.

4.4 Security Interest. Buyer hereby grants to GVMC a security interest in the Goods until all monies due GVMC under this Contract are paid in full. GVMC shall have the right to file financing statements and any other documents that may be necessary to evidence and perfect such a security interest in the Goods in any jurisdiction.

5. Delivery.

5.1 Date. Any delivery date stated in the Contract is approximate only and shall not constitute any guarantee of delivery on any particular date. Time shall NOT be of the essence of the Contract.

5.2 Terms - Domestic Shipments Only. Delivery of all domestic shipments shall be F.O.B. GVMC'S factory, Titusville, PA or such other shipping point as may be designated by GVMC in the Proposal.

5.3 Terms - International Shipments Only. Unless otherwise specified by GVMC in the Proposal, delivery of all international shipments shall be Ex-Works GVMC'S factory, Titusville, PA. Any delivery terms for international shipments which are specified in the Proposal shall be construed in accordance with Incoterms 2000.

5.4 Freight. Unless otherwise directed by Buyer in writing, GVMC shall arrange carriage for the Goods. Buyer shall be solely responsible for the cost thereof, regardless of any delivery terms (including Incoterms) specified in the Proposal.

5.5 Title: Risk of Loss - Domestic Shipments Only. Title to the Goods shall pass to Buyer upon Buyer taking possession of the Goods. Notwithstanding the foregoing, risk of loss or damage to the Goods shall pass from GVMC to Buyer upon delivery of the Goods by GVMC to the carrier. Unless otherwise agreed in writing by the parties, Buyer shall be responsible for procuring insurance with respect to the Goods, and paying the cost thereof. This Section 5.5 shall apply to domestic shipments only.

5.6 Title: Risk of Loss - International Shipments Only. Regardless of the location from which the Goods are shipped and/or to which the Goods are delivered, title to the Goods shall pass to Buyer from GVMC on the high seas for ocean shipments, in international airspace for air shipments, and beyond the territorial confines of the United States of America for overland shipments, such as to Canada and Mexico. Notwithstanding the foregoing, risk of loss or damage to the Goods shall pass from GVMC to Buyer upon delivery of the Goods by GVMC to the carrier. Unless otherwise agreed in writing by the parties, Buyer shall be responsible for procuring insurance with respect to the Goods, and paying the cost thereof. This Section 5.6 shall apply to international shipments only.

5.7 Delay. GVMC shall not be responsible to Buyer or any third party for any damages resulting from any failure or delay in manufacturing or shipping due to any cause beyond GVMC'S reasonable control, including, but not limited to: (1) intervening legal requirements or governmental directives; (2) acts of God; (3) force majeure; (4) labor disputes; (5) delays caused by GVMC'S suppliers or vendors; or (6) war, terrorism, or similar disruptions. If shipment is delayed by Buyer, GVMC shall arrange for storage at Buyer's sole expense. Risk of loss to the Goods shall pass to Buyer upon placing the Goods in storage.

6. Warranties.

6.1 Limited Warranty. For the benefit of the Buyer only, GVMC warrants that all new Goods manufactured by GVMC shall be free from defects in material and workmanship for the periods specified in Section 6.2, below. GVMC'S obligations under this limited warranty are conditioned upon GVMC receiving written notice of any defects no later than the expiration of the applicable warranty period.

6.2 Length. Unless otherwise specified in the Proposal, the limited warranty set forth in this Section 6 begins on the date of shipment and extends for the following periods: _____

6.3 Alteration; Abuse. The limited warranty set forth in this Section 6 shall be void with respect to Goods which have been: (1) altered by Buyer or any third party; (2) repaired by other than GVMC personnel or an GVMC approved contractor; (3) subjected to misuse, abuse, neglect or accident; or (4) damaged by improper installation or application.

6.4 Exclusions. The limited warranty set forth in this Section 6 shall not apply to, and no warranty is given with respect to parts, accessories or components manufactured by others.

6.5 Exclusive Warranty. THE WARRANTY SET FORTH IN SECTION 7, BELOW, WITH RESPECT TO PATENT INFRINGEMENT, AND THE LIMITED WARRANTY SET FORTH IN THIS SECTION 6 ARE THE EXCLUSIVE WARRANTIES GIVEN BY GVMC WITH RESPECT TO THE GOODS AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, BOTH OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

6.6 Limitation of Remedies for Breach of Warranty. In the event of a breach of the limited warranty set forth in this Section 6, Buyer's sole remedy, and GVMC'S sole obligation, is limited to the repair or replacement of the Goods by GVMC, at GVMC'S option. The expense of freight to and from the repair site shall be the sole responsibility of Buyer. If the repair site is other than an GVMC factory or a location designated by GVMC, reasonable out of pocket expenses, including, but not limited to, travel and lodging for GVMC'S service personnel shall be the sole responsibility of the Buyer. Buyer shall be solely responsible for any costs associated with making the Goods accessible or otherwise available to GVMC for the performance of repair work on, or the replacement of, the Goods. Unless otherwise agreed in writing by Buyer and GVMC, GVMC shall not be responsible for any back charges of any nature whatsoever.

7. Patent Infringement.

7.1 Warranty. GVMC warrants that the Goods, and any part of the Goods, which are manufactured to GVMC'S design, shall be delivered free of any rightful claim of infringement of any United States patent.

7.2 Obligation to Defend. Upon prompt written notification by Buyer of any claim of patent infringement, GVMC shall defend or settle any claim of patent infringement at GVMC'S sole cost and expense. Buyer shall provide any information and assistance requested by GVMC in providing such defense.

7.3 Remedies. GVMC shall pay all damages and costs awarded against Buyer incurred as a result of a breach of the warranty contained in this Section 7. In the event that the use of the Goods or parts is enjoined or in the event GVMC decides to defend or settle a claim of patent infringement, GVMC shall at its sole expense and option, either: (1) procure for Buyer the right to continue using such Goods or parts; (2) replace the Goods or parts so that they are non-infringing; or (3) remove the Goods or parts and refund the purchase price, less reasonable depreciation for any period of use. The remedies set forth in this Section 7.3 shall constitute the sole and exclusive remedies of the Buyer in the event of a breach of the warranties contained in this Section 7.

7.4 Exclusions. The warranty set forth in this Section 7 shall not apply to: (1) any Goods or parts specified by Buyer or manufactured to Buyer's design; (2) any Goods or parts altered or modified by Buyer; or (3) the use of any Goods in conjunction with any other product, not manufactured by GVMC. With respect to the Goods described in this Section 7.4, GVMC assumes no liability for patent infringement and Buyer shall indemnify GVMC and hold GVMC harmless from any claims, liability, damages or expenses, including reasonable attorneys' fees, as a result of any patent infringement claims arising therefrom.

8. Limitation of Damages.

8.1 Exclusion of Certain Damages. In no event shall GVMC be liable for consequential, incidental or punitive damages incurred by Buyer or any third party in connection with any matter arising out of or relating to this Contract, or the breach thereof, regardless of whether such damages arise out of breach of warranty, tort, contract, strict liability, statutory liability or otherwise. For purposes of this Section 8.1, consequential damages include, but are not limited to: (1) Buyer's lost production, sales and/or profits; (2) Buyer's loss of use of the Goods and/or any other equipment; (3) Buyer's cost of capital; or (4) any claims of customers of the Buyer against Buyer or GVMC.

8.2 Limitation on Amount. Notwithstanding any other provision of this Contract, the total liability, in the aggregate, of GVMC and GVMC'S employees, officers, directors, representatives and/or agents to Buyer or any third party claiming through or under Buyer for any claims, losses, damages, or costs arising out of or relating to this Contract, or the breach thereof, shall not exceed the total consideration received by GVMC from Buyer under this Contract. This Section 8.2 shall apply regardless of whether the claim arises out of breach of warranty, contract, tort, strict liability, statutory liability or otherwise.

9. Termination for Default. GVMC may terminate this Contract if Buyer: (1) becomes insolvent; (2) is unable to meet its obligations as they become due or admits such in writing; (3) enters bankruptcy or has a receiver or trustee appointed for it; (4) fails to timely make payments under this Contract or under any other obligation of Buyer to GVMC; or (5) fails to provide GVMC with adequate assurance of due performance within fifteen (15) days of Buyer's receipt of GVMC'S written demand therefor. In the case of such a termination, Buyer shall be considered to have defaulted under this Contract and GVMC shall have such remedies as are available to it under this Contract and/or at law.

10. Credit Verification. GVMC reserves the right to perform a review of Buyer's creditworthiness following acceptance of GVMC'S Proposal by Buyer. Notwithstanding any other provision of this Contract, GVMC shall not be obligated to perform the Contract if Buyer's creditworthiness is unsatisfactory to GVMC, in GVMC'S sole discretion. In such case, GVMC shall not be obliged to proceed with the performance of this Contract, and GVMC may cancel this Contract at any time without any liability to Buyer, unless and until the Buyer shall have agreed to such terms of payment and such security therefor as is satisfactory to GVMC, in GVMC'S sole discretion.

11. Export Licenses - International Shipments Only. This Contract is contingent upon GVMC obtaining all export licenses and/or government approvals which may be required under applicable U.S. laws and regulations including, but not limited to, the Export Administration Act, the Trading with the Enemy Act, the Export Administration Regulations and the Foreign Assets Control Regulations. Prior to the date of shipment of the Goods, Buyer shall obtain, at its sole cost, all import licenses and/or other government approvals which may be required by the country of importation. Upon GVMC'S request, Buyer shall provide GVMC with copies of such import licenses and/or government approvals to evidence Buyer's compliance with this Section 11.

Buyer further represents and warrants that it is not, nor will Buyer, directly or indirectly, transfer the Goods to a person or entity listed as: (1) a Specially Designated National or Blocked Person by the U.S. Treasury Department; (2) a Denied Person by the U.S. Commerce Department; (3) a Denied Entity by the U.S. Commerce Department; or (4) a Debarred Party by the U.S. State Department. Buyer shall indemnify and hold GVMC harmless from any claim, loss, damage, fines, penalties, liability or expense incurred with regard to Buyer's failure to comply with this Section 11.

12. Other Provisions.

12.1 Arbitration. Any dispute, controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by arbitration. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. For domestic shipments, the arbitration proceedings shall take place in Titusville, PA. For international shipments, controversies or claims arising out of this Contract shall take place in Pittsburgh, PA. The decision of the arbitration panel shall be binding upon the parties and judgment on the award may be entered in any court of competent jurisdiction.

12.2 Limitation of Actions by Buyer. Any actions against GVMC with respect to any matter arising out of or relating to this Contract must be brought by Buyer, or anyone claiming through or under Buyer, within one (1) year from the date that the claim in question accrued.

12.3 Governing Law. This Contract shall be construed in accordance with the laws of the Commonwealth of Pennsylvania, without reference to any applicable principles of conflicts of law which would direct the application of the laws of another jurisdiction. The United Nations Convention on the International Sale of Goods, the 1974 Convention on the Limitation Period in the International Sale of Goods and the Protocol amending the 1974 Convention shall not apply to this Contract.

12.4 Waiver. The waiver of any right or default in any one instance shall not be deemed a waiver of any future right to enforce this Contract.

12.5 Assignment. This Contract may not be assigned by Buyer without the written consent of GVMC.

12.6 Severability. If any provision of this Contract is held to be invalid or unenforceable for any reason, the remaining provisions shall remain in full force and effect.

12.7 Safety Devices. Buyer assumes all responsibility for supplying all signage, safety devices and guarding necessary for the safe operation of the Goods. Buyer shall indemnify and hold GVMC harmless with respect to any property damage and/or personal injury, including death, to any person, occasioned by reason of such failure on Buyer's and/or any operator's part.

12.8 Buyer Disclosures. Unless otherwise agreed to in writing by GVMC, any information or ideas transmitted by Buyer to GVMC in connection with this Contract shall not be regarded as a trade secret of, or submitted in confidence by, the Buyer.

12.9 No License or Sale of Intellectual Property. The sale of the Goods does not grant to, convey to or confer upon Buyer a license or any other rights, express or implied, under any patent, copyright or other intellectual property right of GVMC encompassed within, covering or relating to the Goods.

12.10 Recovery of Expenses. GVMC shall be entitled to recover from Buyer all costs and expenses (including, but not limited to, reasonable attorney's fees) which are incurred by GVMC in enforcing its rights under this Contract, including, but not limited to, the recovery of any amounts owed by Buyer to GVMC under this Contract.

12.11 Definitions. For purposes of these Terms and Conditions, the term "domestic shipments" shall mean any shipment to a destination within the fifty states or any possession of the United States including Guam, the Midway Islands, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands and Wake Island. The term "international shipments" shall mean any shipment to a destination outside of the fifty states or any possession of the United States, including Guam, the Midway Islands, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands and Wake Island.