



POWER FROM WITHIN

# STANDARD CONDITIONS OF SALES

## STANDARD TERMS AND CONDITIONS OF SALE

**1. APPLICABILITY AND SCOPE**

1.1. All sale of products manufactured and/or sold by Mecc Alte Inc. (hereinafter, the “**Seller**”) to the customer listed in the applicable Order (hereinafter, the “**Buyer**” and together with the Seller, the “**Parties**” and each, individually, a “**Party**”) will be solely governed by these Terms and Conditions of Sale (hereinafter, these “**Conditions**”).

1.2. These Conditions form an integral and essential part of each Order (defined below) with Buyer (each Order together with these Conditions, the “**Agreement**”) concerning the supply of products distributed and, if applicable, manufactured by the Seller (collectively, the “**Products**”). In addition to these Conditions and each Order, all technical and production details and specifications concerning the Products – as available on the website [www.meccalte.com](http://www.meccalte.com) or on the Seller’s Order Confirmations (collectively, the “**Specifications**”) – concerning the Products form an integral and essential part of the Agreement.

1.3. This Agreement will form a binding legal agreement between the Parties as of the date the Seller first accepts an Order in accordance with Section 2 below (“**Effective Date**”).

1.4. PLEASE READ THIS AGREEMENT CAREFULLY. THIS AGREEMENT FORMS A LEGALLY BINDING AGREEMENT BETWEEN THE BUYER AND THE SELLER. BY SUBMITTING AN ORDER THAT IS ACCEPTED BY THE SELLER IN ACCORDANCE WITH THIS AGREEMENT, THE BUYER AGREES THAT THE BUYER HAS READ, UNDERSTAND, AND AGREES TO COMPLY WITH AND BE BOUND BY THIS AGREEMENT.

1.5. BY ENTERING INTO THIS AGREEMENT, THE BUYER MAY BE WAIVING CERTAIN RIGHTS. IN PARTICULAR, THIS AGREEMENT CONTAINS PROVISIONS PROVIDING FOR WAIVER OF JURY TRIALS (IN THE SECTION BELOW TITLED “LAW AND JURISDICTION”), WHICH LIMIT YOUR RIGHTS TO BRING AN ACTION IN COURT AND HAVE DISPUTES DECIDED BY A JURY, AND OTHER PROVISIONS THAT LIMIT THE SELLER’S LIABILITY TO THE BUYER.

1.6. ALL CLAIMS AND DISPUTES ARISING UNDER THIS AGREEMENT MUST BE LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE PARTY CANNOT BE LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER PARTY.

1.7. The Agreement prevails over any additional terms and conditions of purchase or any other terms additional to, or different from, the Agreement that Buyer purports to have govern the sale of Products (collectively, “**Buyer Terms**”) regardless of whether Buyer has submitted any Buyer Terms in an Order or otherwise. Acceptance of any Order by the Seller via an Order Confirmation or fulfillment of any Order by the Seller is expressly limited as follows: (a) such Order shall be governed solely by these Conditions, any applicable Specifications, and any additional or modified terms added by the Seller via an accepted Order Confirmation; (b) no Buyer Terms will serve to modify or amend the Agreement, and all Buyer Terms are unequivocally rejected by the Seller; and (c) Buyer assents to the Seller’s rejection of all Buyer Terms.

1.8. The Seller’s website [www.meccalte.com](http://www.meccalte.com) and catalogues shall not be deemed as any offer to make a sale of Products, and the Seller shall be entitled, at its sole discretion, at any time and without notice, to vary the Specifications or to cease manufacturing any of the Products as technical, economic, or business context may require; provided, however, that any such variances or cessations shall not affect any Orders already accepted by the Seller.

1.9. As of the Effective Date, the Buyer expressly acknowledges, and commits to comply with, all applicable international, national, statewide, and local laws, regulations, rules, and ordinances in force (collectively, “**Laws**”) and, particularly, shall use and sell the Products in compliance with all Laws, Specifications, and other written instructions set forth by the Seller.

1.10. Upon request of the Seller, the Buyer shall inform the Seller of any reselling of the Products to end users within the time period stated in the Seller’s request and the terms and conditions thereof. In replying to the Seller’s request, the Buyer shall inform that Seller if the resale is related to Products which either (a) have been installed into a generator set or (b) are sold separately with other components.

**2. ORDERS**

2.1. The Buyer must place a written order for the Products (“**Order**”) via the email address, or other electronic

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document submission system, designated by the Seller in order to purchase the Products from the Seller. The Seller shall be entitled to accept or deny, in its sole discretion, any Order submitted by the Buyer within fifteen (15) days from the date of receipt of any such Order, and, during such period, any such Order shall be deemed to be firm and irrevocable by the Buyer. Each Order shall constitute the Buyer's offer to buy the specified Products at the Prices (defined below). Each Order will include: (a) the type and quantity of all Products to be purchased; (b) the Delivery Point (defined below); and (c) any other requests pertinent to the Order. No Order is binding unless and until accepted by Supplier as provided in this Section.

2.2. Each Order shall be considered accepted if the Seller either:

- ( ) notifies the Buyer in writing of acceptance (each, an "Order Confirmation"); or
- ( ) even failing such written acceptance, commences the fulfillment of the Order, and in this case, the Seller will inform the Buyer of the commencement of the fulfillment.

2.3. With reference to any Order accepted via an Order Confirmation, to the extent that any terms in the Order Confirmation are additional to, or different from, the Agreement shall be considered as tacitly accepted by the Buyer, unless the Buyer provides a written objection to the Seller within three (3) days of receipt of the Seller's Order Confirmation, in which case the Parties will work together in good faith to amend any such additional or different terms in the Order Confirmation.

2.4. Following Order acceptance, the Seller will issue to the Buyer any standard documentation required for each sale of Products, including invoice and packing list. If the Buyer desires to obtain additional documentation or information from the Seller beyond the standard documentation required for each sale of Products, then the Buyer must request such documentation along with the Buyer's submission of an Order since the Seller may need to take to provision of such additional documentation into consideration as part of the Seller's acceptance. The Seller reserves the right to refuse to issue any additional documentation requested by the Buyer after the acceptance of an Order if the Buyer did not request its provision prior to the Seller's acceptance of the Order.

### 3. PRICES

3.1. The prices of the Products (the "Prices") are net of any taxes, customs duties, or other charges imposed by any governmental authority such as, but not limited to, VAT, which may be levied on the Products as a result of the Seller's or Buyer's performance under the Agreement (collectively "Taxes"). The Buyer shall be responsible for paying all Taxes, which the Seller will include on each invoice, to the extent that the Seller is aware of such Taxes. Taxes shall not include any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel, real or personal property, or other assets.

3.2. The Prices shall be those set out in the Order Confirmation, or, if no Prices are set forth therein, the Prices shall be those set out on the Seller's website at [www.meccalte.com](http://www.meccalte.com) as of the date of the Order Confirmation.

3.3. Prices and methods for arriving thereat shall be considered fixed and not amendable. Any Price amendment, proposed by the Buyer after receipt of Seller's Order Confirmation, will not be valid and binding unless expressly agreed to by the Parties in writing. If the Seller does not agree to the proposed Price amendments from the Buyer, the Buyer shall not be entitled to rescind the Order.

3.4. As an exception made to the provisions set forth in Section 3.3. above, the Buyer expressly acknowledges and agrees that, upon notice to the Buyer, the Seller shall be entitled to reasonably vary Prices due to exceptional circumstances, such as, but not limited to, the increased cost of raw materials and cost of labor, provided that in the event that any such variance exceeds two percent (2%) of the applicable Price as of the date of the applicable Order Confirmation, Buyer shall have the right to cancel the relevant Order by written notice to the Seller sent no later than five days from the date of Seller's Price variation notice sent to the Buyer.

### 4. PAYMENT TERMS AND CONDITIONS

4.1. The Seller shall promptly invoice the Buyer upon shipment of the Products purchased under an Order, and the Buyer shall pay to Seller the Price for such Products by the means and within the timeline set forth in the applicable Order Confirmation.

4.2. Payments due under an invoice shall be considered made on confirmation by the Seller's bank that the relevant cleared funds have been received.

4.3. If the Buyer does not comply with the terms and conditions of payment set forth in an Order Confirmation,

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the Buyer will pay interest on the due sum from the day after the payment's due date to the date of the effective payment, at a rate the lesser of 1.5% per month or the highest rate permissible under Law, calculated daily and compounded monthly. The Buyer shall reimburse the Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under the Agreement or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be immediately entitled to terminate the Agreement or any affected Order and/or stop any further delivery of any other Products if the Buyer fails to pay any amounts when due under an invoice, and such failure continues for five (5) days following written notice thereof.

4.4 The Buyer's payments for the Products under any invoice cannot be postponed or suspended in case of unavailability of the Buyer's or any of its end users' equipment with which the Products are to be interfaced, irrespective of whether such unavailability is due to Buyer's acts or omissions. Further, the Buyer's payment for the Products under any invoice cannot be postponed or suspended in the event that the Buyer has failed to collect a shipment of Products when delivered or has failed to test any of the Products.

4.5 The Buyer shall pay all amounts due under the Agreement in full without any set-off, counterclaim, deduction, or withholding (except for any deduction or withholding required by Law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

## 5. SHIPMENT AND DELIVERY

5.1. Unless otherwise stated in an Order Confirmation, the shipment of Products pursuant to an Order will be made Ex-Works (INCOTERMS 2020, as amended and/or supplemented), at the Seller's premises or at a different place of which the Seller notifies the Buyer (the "Delivery Point"). Any cost and/or risk concerning the transport of the Products, including any shipping fees, insurance fees, and customs and duties levied on the shipment of Products will be solely borne by the Buyer. The Seller may pre-pay any shipping fees and add them to the applicable invoice for reimbursement in accordance with Section 4 above. Title and risk of loss to all Products in a shipment shall be as specified in the Ex-Works INCOTERMS; provided, however, that notwithstanding the foregoing or any Order Confirmation or other writing between the Parties to the contrary, the Seller shall not be liable for any delay, loss, or damage while the Products are in transit.

5.2. The time for the delivery of Products in a shipment shall not be of the essence, unless otherwise agreed in writing by the Parties. The Seller shall not be liable for any non-delivery of Products in a shipment unless the Buyer gives written notice to the Seller of the non-delivery within five (5) business days of the date when the shipment would in the ordinary course of events have been received. Except as stated in Section 5.4 below, any liability of Seller for non-delivery (full or partial) of a shipment of the Products shall be limited to replacing the shipment within a reasonable time or adjusting the invoice respecting such shipment to reflect the actual quantity of Products delivered, in each case only after forty-five (45) days have passed since the estimated delivery date stated in the applicable Order Confirmation. EXCEPT AS STATED IN THE IMMEDIATELY PRECEDING SENTENCE AND IN SECTION 5.4, ANY DELAY OR FAILURE IN THE DELIVERY OF THE PRODUCTS SHALL NOT BE CONSIDERED AS A BREACH OF THE AGREEMENT BY THE SELLER AND SHALL NOT ENTITLE THE BUYER TO CANCEL THE APPLICABLE ORDER, TO CLAIM DIRECT OR INDIRECT DAMAGES OR REIMBURSEMENT OF THE PRICE FROM THE SELLER, OR TO SEEK ANY DISCOUNT ON ANY INVOICE.

5.3. In addition to the Seller's replacement obligation in Section 5.2, in the event of delays in delivery due to any cause beyond the reasonable control of the Seller (including Force Majeure (defined below) and delays caused by sub-contractors in manufacturing Products' components), the Seller shall be entitled, at its sole option, either to postpone original or replacement deliveries for a period equal to the period of duration of such cause or to terminate the Agreement upon reasonable prior written notice to the Buyer, and in the case of such termination, the Seller shall reimburse to the Buyer the amount of any Prices already paid to the Seller for any Products not to be delivered to the Buyer as a result of such termination.

5.4. The Seller shall be entitled to deliver the Products by means of partial lots, even if not expressly provided by the Order Confirmation. Any delay in delivery or defect in any such lot shall not entitle the Buyer to cancel any other lot. The quantity of any lot of Products shipped as recorded by the Seller on dispatch from the Seller's facility is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

5.5. The Buyer must store the Products under the conditions specified by the Seller in the Specifications, or as specified during a technical consultation that the Seller performs for the Buyer. The Seller will not be responsible for any loss or damage to any Products if the Buyer does not comply with the specified storage conditions therefor.

## 6. SECURITY INTEREST

6.1. Notwithstanding the last sentence of Section 5.1 to the contrary, as collateral security for the payment of the Price of the Products in a shipment, the Buyer hereby grants to the Seller a lien on and security interest in and to all of the right, title, and interest of the Buyer in, to, and under such Products and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this Section constitutes a purchase money security interest under the Illinois Uniform Commercial Code.

6.2. To the extent that the Buyer sells any Products to end users while the lien on and security interest in such Products exists, as established by Section 6.1 above, then the Buyer agrees that the proceeds of all such sales of any of the Products shall be held by the Buyer on trust for the Seller, and the amount of the resale prices thus collected by the Buyer shall be set aside for payment of the Prices.

## 7. LIMITED WARRANTY

7.1. Upon careful review of the Specifications, the Buyer acknowledges and agrees that the Products are consistent with the Buyer's intended use and do not have deficiencies in their respective Specifications which may significantly diminish their value.

7.2. Save for any different written agreement between the Parties concerning the term of the warranty period on the Products, the Seller warrants, for a period of twenty-four (24) months from the delivery of any Product that:

- ( ) the Products will be free from defects in material and workmanship;
- ( ) the Products will comply with the Specifications; and
- ( ) the Products will not be subject to efficiency variation over ten percent (+/-10%), which is deemed as the usual tolerability.

7.3. By placing an Order, the Buyer expressly acknowledges that the Buyer's use of the Products will comply with applicable Laws.

7.4. During the warranty period set forth in Section 7.2, and subject to the timely payments by the Buyer of any amounts due under all invoices, the Seller shall replace or repair, free of charge (except for transport expenses), any Product found to be defective pursuant to Section 7.2. THE REMEDIES SET FORTH IN THIS SECTION 7.4 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY, AND SELLER'S ENTIRE LIABILITY, FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 7.2. Without limiting the foregoing, any claims of warranty breach made by the Buyer pursuant to this Section shall not entitle the Buyer to cancel an Order or to suspend the payments for the Products.

7.5. The Seller shall not be liable for a breach of the limited warranty set forth in Section 7.2 unless: (i) the Buyer gives written notice of the warranty breach, reasonably described, to the Seller within thirty (30) days of the time when the Buyer discovers or ought to have discovered the warranty breach; (ii) the Buyer keeps the defective Products in separate storage at its own expense and allows the Seller to inspect such Products at any reasonable time, and upon written request by the Seller, the Buyer returns to the Seller the defective Products at the Buyer's own cost; and (iii) the Seller reasonably verifies the Buyer's claim that the applicable Products have breached the limited warranty.

7.6. The limited warranty set forth under Section 7.2 is not effective in the event that the warranty breach is due to the incorrect installation or assembling of the Products, to the abnormal usage of the applicable Products or to the usage of the applicable Products different from those indicated by the Seller or made available on website [www.meccalte.com](http://www.meccalte.com), to defective maintenance of the applicable Products, to inappropriate conservation or storage of the applicable Products or to the normal wear on the applicable Products, to untrue or uncompleted information provided by the Buyer, to modifications of the applicable Products made or required by the Buyer, and to any action in general performed by the Buyer or third parties on the applicable Products.

7.7. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 7.2, THE SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING ANY (I) WARRANTY OF MERCHANTABILITY; (II) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (III) WARRANTY OF TITLE; OR (IV) 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.

7.8. Nothing in this Agreement will affect any statutory rights to which the Buyer may be entitled as a

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consumer to the extent Buyer's ability to alter or waive such rights by contract is limited by applicable law. Specifically, the Buyer acknowledges that it may have or may in the future have claims against the Seller which it does not know or suspect to exist in its favor when the Buyer agreed to this Agreement and which if known, might materially affect the Buyer's consent to this Agreement. The Buyer expressly waives all rights the Buyer may have under Section 1542 of the California Civil Code, which states:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASING PARTY."

IF THIS CLAUSE IS HELD TO BE UNENFORCEABLE IN WHOLE OR IN PART IN ANY JURISDICTION DUE TO RELEVANT LAWS, THEN IN NO EVENT WILL THE SELLER OR THE SELLER INDEMNITEES (AS DEFINED BELOW) TOTAL LIABILITY TO THE BUYER EXCEED THE TOTAL AMOUNT THE BUYER HAS PAID THE SELLER DURING THE 12 MONTHS PRIOR TO THE INCIDENT. NOTHING IN THIS CLAUSE WILL LIMIT OR EXCLUDE ANY LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE.

## 8. INDEMNITY

8.1. The Buyer shall indemnify, defend, and hold harmless the Seller, its affiliates, and its and their respective directors, officers, members, managers, shareholders, employees, agents, successors, and assigns (collectively, "**Seller Indemnitees**") from and against any claim, suit, demand, or action and the resulting damages, losses, liabilities, judgments, settlements, fines, penalties, costs, and expenses (including reasonable attorneys' fees and litigation costs) (each, a "**Claim**") that any of the Seller Indemnitees incurs to the extent that such Claim is based on: (i) the negligent or intentionally wrongful acts or omissions of the Buyer or any of its employees or agents; (ii) the Buyer's noncompliance with Laws; (iii) a breach by Buyer the Agreement; or (iv) resale of the Products or use of the Products with, or the incorporation of the Products into, any of Buyer's products or services, but only to the extent such Claim does not directly arise from the characteristics of the Products prior to such resale, use, or incorporation.

## 9. LIMITATION OF LIABILITY

9.1. IN NO EVENT SHALL THE SELLER BE LIABLE TO THE BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, BUSINESS, OR PROFIT, OR FOR ANY DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

9.2. IN NO EVENT SHALL THE SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO THE SELLER UNDER THE ORDER IN WHICH THE PRODUCTS RELATED TO SUCH LIABILITY WERE SOLD, BUT ONLY SUCH AMOUNTS PAID IN THE 12 MONTHS PRECEDING THE DATE ON WHICH THE SELLER'S LIABILITY AROSE.

9.3. THE BUYER AGREES THAT THE SELLER WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON THE SELLER'S LIABILITY.

9.4. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF LIABILITY FOR CERTAIN TYPES OF DAMAGES. ACCORDINGLY, SOME OF THE THESE LIMITATIONS OF LIABILITY MAY NOT APPLY TO THE BUYER.

9.5. NOTHING IN THIS AGREEMENT WILL LIMIT OR EXCLUDE LIABILITY FOR LOSSES OR DAMAGES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW.

## 10. FORCE MAJEURE

10.1 The Seller shall not be liable for any delay or failure in the delivery of a shipment of Products, breach of the Agreement, or direct or indirect damage incurred by the Buyer or any third parties that is caused by Force Majeure.

10.2 "**Force Majeure**" shall mean any event beyond a Party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including, without limitation, strikes, lock-outs, or other industrial disputes (whether involving its own workforce or a third party's); failure of energy sources or transport

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networks; acts of God; war or terrorism; riot, civil commotion, interference by civil or military authorities, national or international calamity, or armed conflict; malicious damage; breakdown of plant or machinery; nuclear, chemical or biological contamination; sonic booms, explosions, or collapse of building structures; fires, floods, storms, earthquakes, or other natural disasters; losses at sea; epidemics or similar events, or default of suppliers or subcontractors.

## 11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

11.1. All non-public, confidential, or proprietary information of the Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by the Seller to the Buyer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential” in connection with the Agreement is confidential, solely for the use of the Buyer performing pursuant to the Agreement and shall not be disclosed or copied unless authorized in advance by the Seller in writing. Upon the earlier of the Seller’s request or the termination of the Agreement, at the Seller’s option, the Buyer shall promptly return to the Seller, or destroy, all documents and other materials received from the Seller. The Seller shall be entitled to injunctive relief for any violation of this Section 11. This Section 11 does not apply to information that is: (i) in the public domain; (ii) known to the Buyer at the time of disclosure without any breach of confidentiality; or (iii) rightfully obtained by the Buyer on a non-confidential basis from a third party.

11.2. Nothing in the Agreement should be construed to grant the Buyer any rights in the Marks of the Seller. The Buyer acknowledges and agrees that the Seller may use the name of the Buyer in advertising its customer list. The Buyer acknowledges and agrees that: (i) any and all Intellectual Property Rights in and to the Products are the sole and exclusive property of the Seller and its suppliers, and the Buyer shall not acquire any ownership interest therein; (ii) any goodwill derived from the use by the Buyer of the Intellectual Property Rights of the Seller inures to the benefit of the Seller; (iii) if the Buyer acquires any Intellectual Property Rights in or relating to any Product purchased under this Agreement, by operation of Law or otherwise, these rights are deemed and are hereby irrevocably assigned to the Seller, without further action by either Party; and (iv) the Buyer shall use the Seller’s Intellectual Property Rights solely for the purposes of performing its obligations under the Agreement and only in accordance with the Agreement and the instructions of the Seller. “**Intellectual Property Rights**” means any and all intellectual property, proprietary, and other rights protecting intangible property throughout the world, including all copyrights, patents or patent applications, utility models, registered or unregistered designs or registered design applications, mask works, inventions, processes, trade secrets, proprietary technical information, Marks (registered or not), and other similar proprietary information. “**Marks**” means the trademarks, service marks, trademark and service mark applications, trade dress, trade names, logos, insignia, symbols, designs, or other marks identifying a party or its products.

## 12. EXPRESS TERMINATION CLAUSE

12.1. Without prejudice for any other provision of these Conditions, the Seller may terminate the Agreement with immediate effect by giving written notice to the Buyer upon occurrence of any of the events mentioned in Section 12.2. hereof.

12.2. For the purposes of Section 12.1., the relevant events are:

- (i) unless as otherwise stated elsewhere in these Conditions, the Buyer breaches the Agreement and fails to cure such breach within thirty (30) of receiving written notice of such breach by the Seller;
- (ii) the Buyer does not use the Products in compliance with the instructions provided by the Agreement or by the Seller;
- (iii) Buyer suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts;
- (iv) Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors, other than (where the Buyer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- (v) a petition is filed, a notice is given, a resolution is passed, or an order is made for or in connection

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with the winding up of the Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;

(vi) an application is made to court, or an order is made, for the appointment of an administrator over the Buyer;

(vii) the Buyer is the subject of a bankruptcy petition or order which is not dismissed within sixty (60) days of the filing thereof;

(viii) a creditor of the Buyer attacks or takes possession of, or a distress, execution, sequestration, or other such process is levied or enforced on or sued against, the whole or any part of Buyer's assets, and such attachment or process is not discharged within fourteen (14) days;

(ix) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; and

(x) the Buyer's financial position deteriorates to such an extent that, in the Seller's opinion, the Buyer's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy.

12.3. Without limiting any other right or remedy, the Seller may suspend delivery of the Products under the Agreement or any Order if the Buyer is subject to any of the events listed in Section 12.2, or the Seller reasonably believes that the Buyer is about to become subject to any of them.

12.4. Upon termination of the Agreement for any reason, the Buyer shall immediately pay to the Seller all the Seller's outstanding unpaid invoices and interest.

12.5. Termination of the Agreement, however arising, shall not affect any of the Parties' rights, remedies, obligations, and liabilities that have accrued as of termination.

12.6. Provisions of the Agreement which expressly or by implication survive termination of the Agreement shall continue in full force and effect following such termination.

### 13. CODE OF ETHICS - ANTI-BRIBERY

13.1. The Buyer commits to adhere, and to cause its directors, officers, consultants, staff, employees, agents, and subcontractors to adhere, to the ethical-behavioral principles that the Seller's group has set out in its Code of Ethics, published on the website [www.meccalte.it](http://www.meccalte.it), which the Buyer agrees to have read and which the Buyer agrees forms an integral and substantial part of the Agreement.

13.2. The Buyer represents and warrants that it, its, officers, directors, and employees, and every other person acting on its behalf or with its authority, in connection with the transactions contemplated by these Conditions and any Agreement have not taken, permitted or authorized and shall not take, permit or authorize, directly or indirectly, any action that would or might cause Buyer or Seller (or any of its affiliates) to be in violation of any applicable anti-bribery laws, meaning the United States Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act of 2010 and any other anti-bribery or anti-corruption laws of any country in which buyer is located or otherwise conducting business, as such laws are currently in effect and may be amended from time to time.

13.3. The Buyer represents and warrants that is in compliance with all laws administered by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") or any other national or international governmental or inter-governmental organization with applicable jurisdiction over this Agreement or the Buyer imposing economic sanctions and trade embargoes ("Economic Sanctions Laws") against designated countries ("Embargoed Countries"), regimes, entities, and persons (collectively, "Embargoed Targets"). The Buyer is not an Embargoed Target or otherwise in breach of any Economic Sanctions Law.

13.4. The Buyer shall comply with all Economic Sanctions Laws. Without limiting the generality of the foregoing, the Buyer shall not (i) directly or indirectly engage the Seller on behalf of, or redirect the Products, or any portion of the Products to or via, an Embargoed Target, or (ii) broker, finance, or otherwise facilitate any transaction in relation to the Products in violation of any Economic Sanctions Law.

### 14. LAW AND JURISDICTION

14.1. The sale of the Products between the Seller and the Buyer shall be governed by the laws of the State of Illinois, USA without giving effect to any choice or conflict of law provision or rule (whether of the State of Illinois or any

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other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Illinois. The state and federal courts of Cook County, Illinois, USA shall have exclusive jurisdiction for any disputes between the Parties that may arise in connection with this Agreement, and each Party hereby waives any objection that it may have to the jurisdiction and venue of such courts.

14.2. THE BUYER AGREES THAT THE BUYER WILL PURSUE ANY CLAIM OR LAWSUIT RELATED TO ANY DISPUTE OR OTHERWISE ARISING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT AS AN INDIVIDUAL, AND WILL NOT LEAD, JOIN, OR SERVE AS A REPRESENTATIVE OR MEMBER OF A CLASS OR GROUP OF PERSONS BRINGING SUCH A CLAIM OR LAWSUIT.

14.3. THE PARTIES DESIRE TO AVOID THE TIME AND EXPENSE RELATING TO A JURY TRIAL OF ANY DISPUTE. ACCORDINGLY, THE PARTIES, FOR THEMSELVES AND THEIR SUCCESSORS AND ASSIGNS, HEREBY WAIVE TRIAL BY JURY OF ANY DISPUTE. THE PARTIES ACKNOWLEDGE THAT THIS WAIVER IS KNOWINGLY, FREELY, AND VOLUNTARILY GIVEN, IS DESIRED BY BOTH PARTIES AND IS IN THE BEST INTERESTS OF BOTH PARTIES.

## 15. MISCELLANEOUS

15.1. The Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under the Agreement. The Buyer shall comply with all export and import Laws of all countries involved in the sale of the Products under the Agreement or any resale of the Products by the Buyer. The Buyer assumes all responsibility for shipments of Products requiring any government import clearance. The Seller may terminate the Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on the Products.

15.2. The Buyer shall not assign any of its rights or delegate any of its obligations under the Agreement without the prior written consent of the Seller. Any purported assignment or delegation in violation of this Section 15.2 is null and void. No assignment or delegation relieves the Buyer of any of its obligations under the Agreement.

15.3. The relationship between the Parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

15.4. Except for the Seller Indemnitees, the Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the Agreement.

15.5. All notices hereunder shall be in writing and addressed to the receiving Party at the address set forth on the face of the Order (for the Buyer) and the Order Confirmation (for the Seller) or to such other address that may be designated by the receiving Party in writing. All notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested and postage prepaid). Except as otherwise provided in the Agreement, a notice is effective only (i) upon receipt of the receiving Party, and (ii) if the Party giving the notice has complied with the requirements of this Section 15.5.

15.6. The Buyer agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred to the extent permitted by applicable law.

15.7. If any provision of the Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

15.8. The Agreement constitutes the complete and exclusive agreement between the Parties regarding the subject matter hereof and cancels and supersedes all other agreements, understandings, and communications between the Parties regarding the subject matter of the Agreement.

15.9. Except as specified herein, the Agreement may be amended only in writing by the Parties.

15.10. All waivers under the Agreement must be in writing. Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**Standard conditions of sales**

No delay or failure on the part of any party hereto in exercising any right under the Agreement will impair any such right, power, or privilege or be construed as a waiver of any default or any acquiescence therein.

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