



These terms and conditions govern the sale of products (“Product” or “Products”) and provisions of services (“Services”) by B&D Resources LLC (“BDR”) and its applicable affiliates (“Seller”) to Buyer. These terms and conditions together with each Purchase Order (as defined in Section 1 below) and other documents referenced herein (collectively, this “Agreement”) take precedence over Buyer’s supplemental or conflicting terms and conditions, to which notice of objection is hereby given. Neither Seller’s commencement of performance or delivery shall be deemed or construed as acceptance of Buyer’s supplemental or conflicting terms and conditions. Seller’s failure to object to conflicting or additional terms will not change or add to the terms of this Agreement. Buyer’s submission of a Purchase Order to Seller shall be deemed to constitute acceptance of the terms and conditions contained herein.

1. **Orders:** All purchase orders placed by Buyer are subject to acceptance by Seller by written notice to Buyer or Seller’s performance of the order (upon such acceptance, each a “Purchase Order”). Purchase Orders may not be cancelled or rescheduled without Seller’s written consent. All Purchase Orders must identify the Products and/or Services, unit quantities, part numbers, applicable prices and requested delivery dates of the Products or performance dates of the Services being purchased. Unless otherwise agreed, all Products will be shipped no later than one year from the date that Seller accepts the Purchase Order. Seller may in its sole discretion allocate Product among its customers. Seller may designate certain Products and Services as non-cancelable, non- returnable (“NCNR”) and the sale of such Products and Services shall be subject to any special terms and conditions contained in Seller’s order acknowledgement or NCNR Letter, which shall prevail and supersede any inconsistent terms and conditions contained herein or elsewhere. In addition to any remedies that may be provided under this Agreement or at law or equity, Seller may terminate this Agreement or cancel any Purchase Order or delivery(ies) thereunder with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any terms of this Agreement; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.
2. **Prices:** The prices of the Products and Services are those prices specified on the front of the invoice. Pricing for undelivered Products or unperformed Services may be increased in the event of an increase in Seller’s cost, change in market conditions or any other causes beyond the Seller’s reasonable control. Price quotations shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the quotation.
3. **Taxes and Insurance:** Unless otherwise agreed to in writing by Seller, all prices quoted are exclusive of transportation and insurance costs, duties, and all taxes including federal, state and local sales, excise and value added, goods and services taxes, and any other taxes. Buyer agrees to indemnify and hold Seller harmless for any liability for tax in

connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes shall appear as separate items on Seller's invoice. During the term of this Agreement, Buyer shall, at its own expense, maintain and carry insurance in full force and effect commercial general liability (including product liability) insurance and such other insurance consistent with industry standards sufficient to satisfy Buyer's reasonably foreseeable liabilities hereunder with financially sound and reputable insurers. Upon Seller's request, Buyer shall provide Seller with a certificate of insurance from Buyer's insurer evidencing such insurance coverage. If requested by Seller, the certificate of insurance shall name Seller as an additional insured. Buyer shall provide Seller with thirty (30) days' advance written notice in the event of a cancellation or material change in Buyer's insurance policy. Except where prohibited by law, Buyer shall require its insurer to waive all rights of subrogation against Seller's insurers and Seller.

4. **Payment:** All invoices are considered correct and accepted if Supplier is not notified of a dispute in writing within 10 days of receipt. Payment may be made by check, money order, credit card, PayPal or wire transfer (all fees are borne by the Buyer). A surcharge of 3% for credit card sales and 4% for sales via PayPal will be assessed. Where Seller has extended credit to Buyer, terms of payment shall be net thirty (30) days from date of invoice, without offset or deduction unless otherwise noted. Seller reserves the right to change terms and conditions per written agreement with customer. On any past due invoice, Seller may impose interest at the rate of one and a half percent 1.5% per month or, if lower, the highest amount permitted under applicable law. If Buyer fails to make any payment when it is due, Seller reserves the right to change or withdraw credit and thereby suspend or cancel performance under any or all Purchase Orders or agreements in which Seller has extended credit to Buyer. In the event of default by Buyer, Seller shall be entitled to costs, fees, and expenses, including but not limited to recovery of attorneys fees, court costs and fees, and collections costs and Seller shall indemnify and reimburse Seller therefor.
5. **Delivery and Title:** All deliveries will be made "EXWORKS" (INCOTERMS 2020) place of shipment. Title and risk of loss pass to the Buyer upon delivery of the Product to the carrier. Seller's delivery dates are estimates only and Seller is not liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the Seller, nor shall the carrier be deemed an agent of the Seller. A delayed delivery or performance of any part of a Purchase Order does not entitle Buyer to cancel other deliveries or performances.
6. **Returns, Refunds and Exchanges:**

**Returns:**

Only Products originally shipped from Seller or from an authorized supplier of Seller (drop-ship) will be considered for return to Seller. By a Customer requesting return of Products to Seller, the Customer certifies that the Products were purchased from Seller and there has been no substitution of the Product from another supplier, distributor or other source of the Product. Any return must be in the original packaging and in unused

condition except if approved for failure analysis/warranty evaluation by a BDR sales representative via a Return Material Authorization (RMA).

Certain material sold is not non-returnable and all material sold is subject to a restocking charge and return freight charges.

**How to Return an Item:**

1. Contact a BDR sales representative within 30 days of ship date of item(s) by calling our us at number at **1-303-218-3707** or by emailing **orders@BDRsite.com**.
2. To expedite issuance of the RMA, please provide the part number(s) you are wanting to return, quantity, the original purchase order number that the material was purchased on, the original invoice number the material was billed on (if billing has been issued), and the reason for return.

THE RMA number must be clearly marked on the outside of the box of material being returned with a copy if the RMA enclosed with the material. Material returned without a RMA will not be processed until the required information is obtained.

We cannot accept any Product for return if it is was shipped more than 30 days prior, and is not in salable Condition, unless the Product is being returned for repair or if factory defective.

All returns are subject to review by management prior to issuance of credit or replacement.

3. BDR will issue a Return Material Authorization

**(RMA) number.** Once the RMA number is received, item must be returned within 14 days. BDR will provide the customer with specific instructions on where to mail / return item(s) with the RMA number. In most cases returned Products will be shipped to the BDR warehouse located at:

2491 Bellavista St.  
Castle Rock, Colorado 80109

4. Include the signed RMA in the return package stating the reason for the return and he original receipt.

**Return Freight / Restocking Fee:**

Seller reserves the right to charge cancellation and restocking fees, at a minimum rate of 15% to be deducted from the customer's refund. Seller does not refund the original

shipping and handling. Customer is responsible for all return freight charges. Seller does not accept COD shipments.

**Exchanges:**

Any item for exchange must be in new condition and in the original packaging. Exchanges must be requested within 30 days of ship date. Defective item(s) may be exchanged/returned for the same item. Items purchased from Seller that have been used or altered and any items that have been sold as NC/NR (Non-cancelable and Non-Returnable) will not be accepted for exchange.

**Non-Cancelable and Non-Returnable Items:**

Products listed as NC/NR status (Non-cancelable and Non-Returnable) are identified on the Purchase Order.

**Refunds:**

Upon receipt and inspection of returned Product(s), BDR will advise of the refund status. In the case of factory warranty or failure analysis, Seller will issue any applicable credit pending manufacturer confirmation of failure. Seller initiates credits via the original method of payment within 48 hours of approval. Refunds via credit card can take up to 10 business days to post to the account.

7. **Limited Warranty:** Seller will transfer to Buyer any Product warranties and indemnities authorized by the manufacturer, including any transferable warranties and indemnities for intellectual property infringement. Seller warrants to Buyer that Products purchased hereunder will conform to the manufacturer's applicable written specifications for such Products for the time period set forth in such specifications and that any Services performed by Seller on such Products will conform to Buyer's applicable specifications agreed to in writing by Seller. If Seller breaches this warranty, Buyer's remedy is exclusively limited to (at Seller's election) (1) refund of Buyer's purchase price for such Products or Services (without interest), (2) repair of such Products or re-performance of such Services, or (3) replacement of such Products; provided that such Products must be returned to Seller, along with acceptable evidence of purchase, within 30 days from date of delivery, transportation charges prepaid. No warranty will apply if the Product has been subject to misuse, static discharge, neglect, accident or modification, or has been soldered.

THE REMEDIES SET FORTH IN SECTION 6 AND THIS SECTION 7 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN THIS SECTION 7.

EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 7, SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS OR SERVICES, INCLUDING ANY IMPLIED WARRANTIES (WHETHER STATUTORY OR OTHERWISE), ANY WARRANTY RESPECTING THE MERCHANTABILITY OF THE PRODUCTS OR THEIR SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE,

NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND WARRANTIES AGAINST LATENT DEFECTS, OR WARRANTY OF TITLE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

8. **Limitation of Liabilities:** BUYER SHALL NOT BE ENTITLED TO, AND SELLER SHALL NOT BE LIABLE FOR, LOSS OF PROFITS OR REVENUE, PROMOTIONAL OR MANUFACTURING EXPENSES, OVERHEADS, BUSINESS INTERRUPTION COST, LOSS OF DATA OR USE, REMOVAL OR REINSTALLATION COSTS, INJURY TO REPUTATION OR LOSS OF BUYERS, PUNITIVE DAMAGES, INTELLECTUAL PROPERTY INFRINGEMENT, LOSS OF CONTRACTS OR ORDERS OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. BUYER'S RECOVERY FROM SELLER FOR ANY CLAIM SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE AFFECTED PRODUCTS OR SERVICES IRRESPECTIVE OF THE NATURE OF THE CLAIM WHETHER IN CONTRACT, TORT, WARRANTY, OR OTHERWISE. BUYER WILL INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM ANY CLAIMS BASED ON (a) SELLER'S COMPLIANCE WITH BUYER'S DESIGNS, SPECIFICATIONS, OR INSTRUCTIONS, (b) MODIFICATION OF ANY PRODUCTS BY ANYONE OTHER THAN SELLER, or (c) USE IN COMBINATION WITH OTHER PRODUCTS.
9. **Export Control:** Buyer certifies that it will be the recipient of the Products to be delivered by Seller. Buyer understands that the associated hardware, software, and/or technical data ("Covered Products") listed on their Order includes items that are governed by the U.S. Export Administration Regulations ("EAR"), by the U.S. Foreign Assets Control Regulations ("OFAC") and the International Traffic in Arms Regulations ("ITAR"). The Buyer understands that its sale or distribution of said Covered Products may constitute exports or re-exports, and as such, must be in accordance with the requirements administered by Bureau of Industry and Security, Department of Treasury, and Department of State. It is understood that the country of ultimate destination, commodity classification, end-user, or end-use for any said Covered Products, could affect the applicable license requirements and exportability. The Buyer agrees to consult various resources, such as the EAR, ITAR, and OFAC, by the U.S. Department of Commerce's Bureau of Industry and Security's ("BIS") Export Counseling Division, and other appropriate Government Sources to ensure, and shall be responsible for ensuring, that the sales and distribution of said Covered Products, is processed in accordance with all applicable laws. The Seller will not transfer any export-controlled Covered Products to a "non-U.S. Person" without the proper authority of the United States Government, and the buyer's written approval.

10. **Use of Products:** Unless otherwise noted by Seller in writing, Products sold by Seller are not designed, intended or authorized for use in life support, life sustaining, nuclear, or other applications in which the failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property damage. If Buyer uses or sells the Products for use in any such applications: (1) Buyer acknowledges that such use or sale is at Buyer's sole risk; (2) Buyer agrees that Seller and the manufacturer of the Products are not liable, in whole or in part, for any claim or damage arising from such use; and (3) Buyer agrees to indemnify, defend and hold Seller and the manufacturer of the Products harmless from and against any and all claims, damages, losses, costs, expenses and liabilities, including but not limited to recovery of attorneys fees, court costs and fees, and collections costs, arising out of or in connection with such use or sale. Buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.
11. **Force Majeure:** Seller is not liable for failure to fulfill its obligations for any accepted Purchase Order or for delays in delivery due to causes beyond Seller's reasonable control including, but not limited to, acts of God, natural or artificial disaster, riot, war, strike, delay by carrier, shortage of Product, acts or omissions of other parties, acts or omissions of civil or military authority, government priorities or rules or restrictions, changes in law, material shortages, fire, strikes, floods, epidemics, quarantine restrictions, acts of terrorism, delays in transportation or inability to obtain labor, materials, components or Products through its regular sources, which shall be considered as an event of force majeure excusing Seller from performance and barring remedies for non-performance. In an event of force majeure condition, the Seller's time for performance shall be extended for a period equal to the time lost as a consequence of the force majeure condition without subjecting Seller to any liability or penalty. Seller may, at its option, cancel the remaining performance, without any liability or penalty, by giving notice of such cancellation to the Buyer.
12. **Technical Assistance or Advice:** If technical assistance or advice are offered or given to Buyer, such assistance or advice is given free of charge and only as an accommodation to Buyer. Seller 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 Seller's representatives in connection with the Products or Services constitute a representation or warranty, express or implied.
13. **Confidential Information:** All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to 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 this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply



to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

14. **General:** The laws of the State of Colorado will exclusively govern this Agreement. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of Colorado in each case located in or serving Castle Rock, Colorado, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Buyer may not assign this Agreement without the prior written consent of Seller. BDR or its affiliates may perform the obligations under this Agreement. This Agreement is binding on successor and assigns. Products, parts, and machines, including software or other intellectual property, are subject to any applicable rights of third parties, such as patents, copyrights and/or user licenses. This Agreement may only be amended or modified in a writing stating specifically that it amends this Agreement and is signed by an authorized representative of each party. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. The relationship between the parties is that of independent contractors. Nothing contained in this 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. Provisions of this Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement