

TERMS AND CONDITIONS OF SALE

The buyer (“Buyer”) agrees to purchase and Abracon LLC (“Abracon”) agrees to sell, to Buyer, the products specified on the Buyer’s purchase order (the “Products”) under the terms and conditions contained in this Terms and Conditions of Sale (“Terms and Conditions”). Buyer acknowledges to have read and understood these Terms and Conditions, which shall prevail over and apply to the exclusion of any terms and conditions contained or referred to in Buyer’s purchase order or in correspondence or elsewhere or implied by trade custom, practice, or course of dealing. Unless there is a separate executed written agreement for the Products between Buyer and Abracon in effect at the time of the purchase order, all purchase orders received by Abracon from Buyer shall be governed only by these Terms and Conditions notwithstanding any preprinted terms and conditions on Buyer’s purchase order or any other communication or document of Buyer. Any additional or different terms in Buyer’s documents are hereby deemed to be rejected. Buyer accepts these Terms and Conditions by accepting delivery of the Product(s) whether or not these Terms and Conditions are provided with each sales transaction. These Terms and Conditions are also available on Abracon’s website www.abracon.com.

1. **Prices:** Prices are in US dollars, with delivery terms specified herein and are exclusive of any other charges including, without limitation, fees for export, special packaging, freight, insurance, and similar charges. Abracon reserves the right to increase the price of Products by written notice to Buyer at least 30 days prior to the date of shipment. When quantity price discounts are quoted by Abracon, the discounts are computed separately for each type of Product to be sold and are based upon the quantity of each type and each size ordered at any one time. If any discounted order is reduced by Buyer with Abracon’s consent, the prices shall be adjusted to the higher prices, if applicable, for the remaining order.

2. **Taxes:** Unless otherwise specified in the quote, the prices do not include any taxes, import or export duties, tariffs, customs charges or any such other levies. Buyer agrees to reimburse Abracon the amount of any federal, state, county, municipal, or other taxes, duties, tariffs, or custom charges Abracon is required to pay. If Buyer is exempt from any such charges, Buyer must provide Abracon with appropriate documentation.

3. **Payment Terms:** For each shipment, Abracon will invoice Buyer for the price of the Products plus all applicable taxes, packaging, transportation, insurance and other charges. Unless otherwise stated in a separate agreement or in Abracon’s quote, payments are due within 30 days from the date of invoice, subject to Abracon’s approval of Buyer’s credit application. All invoicing disputes must be submitted in writing to Abracon within 10 days of the receipt of the invoice accompanied by a reasonably detailed explanation of the dispute. Payment of the undisputed amounts shall be made timely. Abracon reserves the right to require payment in advance and otherwise modified credit terms. When partial shipments are made, payments for such shipments shall become due in accordance with the above terms upon submission of invoices. If, at the request of Buyer, shipment is postponed for more than 30 days, payment will become due 30 days after notice to Buyer that Products are ready for shipment. Any unpaid due amounts will be subject to interest at 1.5% per month, or, if less, the maximum rate allowed by law.

4. **Delivery; Shipment; and Risk of Loss:** Shipment dates are estimates only. Failure to deliver by a specified date shall neither entitle Buyer to any compensation nor impose any liability on Abracon. Abracon reserves the right to ship and bill +/- 10% of the exact quantity specified on the applicable purchase order. Abracon reserves the right to ship up to 10 days prior to the request date. All shipments will be made Ex Works as per Incoterms 2020 from Abracon’s place of shipment, at which time Abracon’s responsibility for any loss or damage ends, and title passes to Buyer. Buyer must provide shipping instructions at the time of order placement. Claims against Abracon for shortages must be made in writing within 10 days after the arrival of the shipment. Abracon is not required to notify Buyer of the shipment. Buyer shall pay all freight charges, insurance and other shipping expenses. Freight charges, insurance and other shipping expenses itemized in advance of actual shipment, if any, are estimates only that are calculated on the basis of standard tariffs and may not reflect actual costs. Buyer must pay actual costs.

5. **Purchase Orders; Changes; and Cancellations:** All purchase orders are subject to acceptance by Abracon. All orders are subject to a minimum order policy of \$1,500 per line item unless otherwise approved by Abracon. Purchase orders for standard Abracon Products may not be canceled within 60 days of the date of shipment. Purchase orders for non-standard Products are non-cancelable and non-returnable. All schedule change requests must be sent at least 30 days prior to the date of shipment. The maximum schedule change push out shall be no more than one (1) reschedule of no more than 30 days from the date of shipment. Additional reschedules are subject to Abracon approval. Cancellation of volume-based priced products can result in a bill-back of products already shipped and invoiced to the new price based on the volume of products purchased. Abracon may terminate or cancel this order, in whole or in part, at any time prior to the completion of performance by written notice to Buyer without incurring any liability to



Buyer for breach of contract or otherwise. Abracon reserves the right to allocate Products in its sole discretion among Buyer and other potential buyers, or defer or delay the shipment of any Product, which is in short supply due to any reason.

6. **No Resale of Products:** Buyer may not resell Products without Abracon's prior written authorization unless the Products are embedded into a product or application sold by the Buyer. Buyer to indemnify Abracon for all losses resulting from breaching this provision.

7. **Packaging:** Packaging shall be Abracon's standard shipping materials or as specified on Buyer's purchase order. Any cost of non-standard packaging and handling requested by Buyer shall be abided by Abracon provided Buyer gives reasonable prior notice and agrees in writing to pay additional costs.

8. **Security Interest:** Buyer hereby grants Abracon a purchase money security interest in the Products sold and in the proceeds of resale of such Products until such time as Buyer has paid all charges. Abracon retains all rights and remedies available to Abracon under the Uniform Commercial Code.

9. **Specifications:** Specifications for each Product are the specifications specified in the published datasheets of such Product, as of the date of Buyer's purchase order (the "Specifications"). Except as otherwise agreed, Abracon reserves the right to modify the Specifications at any time without adversely affecting the functionality.

10. **Product Acceptance:** Unless Buyer notifies Abracon in writing within 10 days from the date of receipt of Products that the Products fail to materially conform to the Specifications, the Products will be deemed accepted by Buyer. In addition to exclusions in Section 11, no such claim of non-conformity shall be valid if (i) the Products have been altered, modified, or damaged by Buyer, (ii) the rejection notice fails to explain the non-conformance in reasonable detail and is not accompanied by a test report evidencing the non-conformity, or (iii) rejected Products are not returned to Abracon within 30 days of rejection; provided, that no Product returns may be made without a return material authorization issued by Abracon.

11. **Limited Warranties and Disclaimers:** Abracon warrants to Buyer that each Product, for a period of 12 months from shipment date thereof, will materially conform to the Specifications and be free from defects in materials and workmanship. Abracon's sole liability and Buyer's exclusive remedy for Products that fail to conform to this limited warranty ("Defective Products") is limited to repair or replacement of such Defective Products or issue a credit or rebate of no more than the purchase price of such Defective Products, at Abracon's sole option and election. This warranty shall not apply: (i) if Products have been damaged or submitted to abnormal conditions (mechanical, electrical, or thermal) during transit, storage, installation, or use; or (ii) if Products are subject to Improper Use (as defined below); or (iii) if the non-conformance of Products results from misuse, neglect, improper testing, storage, installation, unauthorized repair, alteration, or excess usage at or beyond the maximum values (including temperature limit, maximum voltage, and other Specification limits) defined by Abracon; (iv) to any other default not attributable to Abracon; or (v) removal, alteration, or tampering of the original Abracon Product labeling. This warranty does not extend to Products or components purchased from entities other than Abracon or Abracon's authorized distributors or to third-party software or documentation that may be supplied with any Product. If no defect or breach of warranty is discovered by Abracon upon receipt of any returned Product, such Product will be returned to Buyer at Buyer's expense and Buyer will reimburse Abracon for the transportation charges, labor, and associated charges incurred in testing the allegedly Defective Product. The above warranty is for Buyer's benefit only and is non-transferable. OTHER THAN THE LIMITED WARRANTY SET FORTH ABOVE, ABRACON MAKES NO WARRANTIES, EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING DISCLAIMERS, ABRACON INCORPORATES BY REFERENCE ANY PRODUCT-SPECIFIC WARRANTY DISCLAIMERS SET FORTH IN THE PUBLISHED PRODUCT DATASHEETS.

12. **Limitation of Liability:** ABRACON SHALL HAVE NO LIABILITY FOR LOSS ARISING FROM ANY CLAIM MADE AGAINST BUYER, OR FOR SPECIAL, INDIRECT, RELIANCE, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF USE, PROFITS, REVENUES, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS BASED ON ANY BREACH OR DEFAULT OF ABRACON, HOWEVER CAUSED, AND UNDER ANY THEORY OF LIABILITY. BUYER'S SOLE REMEDY AND ABRACON'S SOLE AND TOTAL LIABILITY FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT (INCLUDING BREACH OF WARRANTY) OR TORT (INCLUDING NEGLIGENCE OR MISREPRESENTATION) OR UNDER STATUTE OR OTHERWISE SHALL BE LIMITED TO AND SHALL



NOT EXCEED THE AGGREGATE AMOUNTS PAID BY BUYER TO ABRACON FOR PRODUCTS WHICH GIVE RISE TO CLAIMS. BUYER SHALL ALWAYS INFORM ABRACON OF ANY BREACH AND AFFORD ABRACON REASONABLE OPPORTUNITY TO CORRECT ANY BREACH. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER ABRACON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

13. Confidential Information: All materials and Product(s) furnished by Abracon and identified as containing confidential information must be held in confidence by the recipient using at least the degree of care the recipient uses for its own confidential information, but no less than reasonable care. Except as required by law, the recipient may not disclose such materials or confidential information except to its own employees who require use of the materials in the performance of their duties and who are bound by a duty of confidentiality under terms no less restrictive than contained herein concerning the use of confidential information. Any non-public samples or prototypes provided by Abracon shall constitute confidential information, whether or not so identified.

14. Improper Use: Buyer agrees and covenants that, without Abracon's prior written approval, Products will not be used in life support systems, human implantation, nuclear facilities, or systems or any other application where Product failure could lead to loss of life or catastrophic property damage (each such use being an "Improper Use"). Buyer will indemnify and hold Abracon harmless from any loss, cost, or damage resulting from Improper Use of the Products.

15. Export Control and Economic Sanctions Compliance: Buyer agrees to comply fully with all applicable export control and economic sanctions laws, including those regulations maintained by the U.S. Commerce Department's Bureau of Industry and Security and the U.S. Treasury Department's Office of Foreign Assets Control. Specifically, Buyer agrees that it will not directly or indirectly sell, provide, export, re-export, transfer, divert, loan, lease, consign, or otherwise dispose of any product, services, software, source code, or technology received from Abracon to any person, entity, or destination, or for any activity or use prohibited by the laws and regulations of the United States without obtaining prior authorization from the competent government authorities. Buyer agrees to indemnify Abracon for any costs, penalties and fees incurred by Abracon resulting from Buyer's breach of this provision.

16. Governing Law: These Terms and Conditions and all transactions contemplated hereunder are governed by the laws of the State of California without reference to conflict of law principles. The federal and state courts located within the State of California will have exclusive jurisdiction to adjudicate any dispute arising out of these Terms and Conditions. Each party hereby waives to the fullest extent permitted by applicable law any right it may have to a jury trial concerning any litigation directly or indirectly arising out of, under or in connection with these Terms and Conditions. The UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) shall not apply to any purchases made hereunder.

17. Force Majeure: Abracon shall not be liable for any delay or failure to perform resulting from: (i) less than expected manufacturing volumes; (ii) disruptions in the manufacturing process; (iii) delays or failure to perform due to any cause beyond its control or the control of its suppliers or subcontractors; (iv) pandemics, epidemics, strikes, acts of God, man-made or natural disaster, acts or omissions of Buyer, interruptions in transportation, act of a governmental authority including laws, regulations, orders, or decrees, or the inability to obtain necessary labor, materials or facilities through regular sources; or (v) any legal theory of force majeure. Shipment schedules shall be considered extended by a period of time equal to the time lost because of any excusable delay.

18. Miscellaneous: In the event of any insolvency or inability to pay debts as they become due by Buyer, or voluntary or involuntary bankruptcy proceeding by or against Buyer, or appointment of a receiver or assignee for the benefit of creditors of Buyer, Abracon may elect to cancel any unfulfilled obligations. In the event any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and these terms shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. A waiver of a breach or default under these terms shall not be a waiver of any subsequent default. Failure of Abracon to enforce compliance with any of these terms shall not constitute a waiver of such terms. These Terms and Conditions are made solely for the exclusive benefit of Buyer and Abracon and all third-party rights of enforcement are hereby excluded to the fullest extent possible.