



1. KAYTECH'S Terms and Conditions Control the Agreement.

a. These terms and conditions are incorporated into and made a part of the agreement or proposal ("**Agreement**") by **KAYTECH INDUSTRIES CORPORATION** to sell to the named Buyer the goods referenced on the face of this document ("**Goods**") and services (including, without limitation, any material management, assembly and kitting services, and engineering and design services (whether performed by KAYTECH or a subcontractor)) referenced on the face of this document ("**Services**"). The Agreement expressly limits Buyer's acceptance to these terms and conditions. Buyer may reject the Agreement by not ordering any Goods or Services. The Agreement does not constitute an acceptance by KAYTECH of any offer or counteroffer of Buyer, and KAYTECH hereby rejects any additional, different, or inconsistent terms, conditions or limitations contained in or incorporated by reference in any forms, purchase orders or other documents of Buyer that already have been or hereafter may be presented to KAYTECH with respect to the Agreement. KAYTECH's acceptance is expressly limited to these terms and conditions.

b. If Buyer has submitted or will submit additional and/or different terms and conditions, or a counteroffer, to KAYTECH, KAYTECH's subsequent performance will not be construed as either acceptance of Buyer's additional and/or different terms and conditions or Buyer's counteroffer, nor will KAYTECH's subsequent performance be viewed as a willingness to accept any provision of the Uniform Commercial Code, as adopted by any state or commonwealth that is contrary or in addition to any of the terms and conditions hereof.

2. Prices.

a. Unless otherwise agreed to by KAYTECH in writing, KAYTECH's prices for the Goods and Services will be the prices stated on the face of this Agreement or KAYTECH's standard prices for such Goods and Services as of the date hereof, provided that, where standard prices for Goods in the quantities ordered as calculated by KAYTECH extend beyond two decimal places, KAYTECH shall round to the nearest two decimal places. KAYTECH may change the price for the Goods and Services: (a) in accordance with any change to its standard pricing for such Goods and Services and (b) by the amount of any tariff, excise, levy or charge of any kind imposed, assessed or collected by a governmental body, prior to the date of delivery of Goods or performance of Services, as the case may be.

b. The prices of all Goods and Services are confidential, and Buyer shall not disclose such prices to any unrelated third party. KAYTECH and Buyer acknowledge and agree that money damages for any breach of Buyer's obligation not to disclose the price of Goods or Services is both incalculable and insufficient and that any such breach would irreparably harm KAYTECH. Therefore, in the event of an actual or prospective breach of the obligation in this Section 2(b), KAYTECH shall be entitled to preliminary and permanent injunctions to prevent or remedy such breach, and specific enforcement of this Agreement, in addition to any other remedies to which KAYTECH may be entitled at law or in equity.

3. **Specifications.** Unless KAYTECH has expressly agreed otherwise in writing, it is Buyer's responsibility to ensure that the Goods and Services are the ones that it has requested and that all specifications and quantities are correct.

4. Shipment of Goods; Performance of Services.

a. Shipment of all Goods shall be made FOB KAYTECH. Buyer shall bear the risk of loss and damage to Goods after shipment departs Kaytech on Buyers account. Title transfers to Buyer at the date of shipment, or, with respect to Goods from KAYTECH's inventory that KAYTECH stores for Buyer, as of the effective date of this Agreement.

b. Any shipping dates for Goods or performance dates for Services given in advance of actual shipment of Goods or performance of Services are KAYTECH's best estimates for informational purposes only, and deliveries of Goods and performance of Services will be made subject to prior orders on file with KAYTECH.

c. Buyer is responsible for insuring the Goods during delivery and filing and pursuing claims with carriers for loss of or damage to Goods in transit.

d. Buyer is responsible for obtaining, at its sole expense, all necessary licenses and permits for the Goods and Services, including, without limitation, licenses and permits for transportation.

- e. If Buyer is unable to receive the Goods when they are tendered, Buyer shall be liable to KAYTECH for any losses, damages, or additional expenses KAYTECH incurs or suffers as a result of Buyer's inability to receive the Goods.
- f. Quantities are subject to normal industry allowances, of +1 – 10%.
- g. Buyer shall immediately inspect all Goods upon delivery and will be deemed to have accepted the Goods unless it notifies KAYTECH in writing within 5 days of delivery that it rejects them. Buyer waives all claims for shortages and discrepancies unless made in writing to KAYTECH within 5 days of delivery of the Goods. Notwithstanding the foregoing, use of the Goods by Buyer, its agents, employees or customers shall constitute acceptance of the Goods by Buyer.
- h. KAYTECH may cancel in whole or in part any order for Goods or Services under the Agreement at any time.

5. **Payment.**

- a. Buyer shall pay for Goods and Services in the currency specified by KAYTECH. Buyer shall pay for Goods and Services by such means as KAYTECH may specify, such as by check or wire transfer, provided that KAYTECH may, in its sole discretion, prohibit or condition payment by any means, including, without limitation, credit cards. Account balances cannot be paid by credit card unless expressly agreed by KAYTECH in writing.
 - b. Payment for Goods and Services is due within 30 days from the date of KAYTECH's invoice; provided, however, that KAYTECH reserves the right, in its sole discretion, to require full payment in cash before order entry, shipment, or delivery. If Buyer fails to pay when due or if its creditworthiness changes, KAYTECH, in its sole discretion, may, among other actions, (a) reject any new purchase order; (b) require Buyer to immediately pay all outstanding invoices, and/or (c) withhold shipment or cease performance until payment has been received.
 - c. KAYTECH has the right to offset all amounts due and owing from KAYTECH to Buyer under this Agreement, including, without limitation, any chargebacks or rebates, against any amounts due and owing from Buyer to KAYTECH under this Agreement.
 - d. If Buyer defaults in payment, Buyer will be liable for all collection costs KAYTECH incurs, including, but not limited to, attorneys' and collection agency fees, and all related disbursements.
 - e. Past due amounts are subject to service charges of one and a half percent (1.5%) per month or the maximum percentage rate permitted by law, whichever is less.
 - f. Buyer unconditionally guarantees payment, as primary obligor, of all purchases made by its subsidiaries and affiliates.
 - g. If KAYTECH agrees to stock Goods for Buyer, Buyer acknowledges and agrees that it is responsible for all excess and obsolete Goods.
 - h. If Buyer remits a payment on account without remittance detail, KAYTECH has the right to apply the funds to oldest invoices first. Buyer has sixty (60) days to challenge KAYTECH's application of payment funds.
6. **Taxes.** The purchase price of the Goods and Services does not include transportation taxes and sales, use, excise, value add, import or any similar tax or other governmental charge arising pursuant to or in connection with the sale, purchase, processing, delivery, storage, use, consumption, performance or transportation of the Goods and Services. Buyer is responsible for paying any transportation taxes, and any present or future sales, use, excise, import (including "trade war tariffs") or any similar tax or other governmental charge applicable to the Agreement and to the sale and/or furnishing of the Goods and Services.
7. **Cancellation.** Buyer may cancel its order for Goods and/or Services, but only if KAYTECH agrees to such cancellation in writing and only after Buyer pays reasonable charges for expenses already incurred and commitments KAYTECH made in connection with the placement of such order(s).
8. **Limited Warranties; Disclaimer of Warranties.** KAYTECH warrants that, unless otherwise specified, at the time of delivery to the point of shipment, the Goods are new and free from liens and encumbrances. KAYTECH will use commercially reasonable efforts to pass through to Buyer all manufacturer warranties. KAYTECH warrants that it will provide Services in a competent fashion, in accordance with industry standards. **KAYTECH HEREBY EXPRESSLY DISCLAIMS AND EXCLUDES ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN OR ORAL, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY CONTRACT, AT LAW, IN EQUITY, BY STRICT LIABILITY OR OTHERWISE, WITH RESPECT TO THE GOODS AND SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, ANY WARRANTY AGAINST DEFECTS IN DESIGN, MATERIALS AND WORKMANSHIP, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY AGAINST REDHIBITORY DEFECTS, AND ANY WARRANTY AGAINST INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY PATENTS, TRADEMARKS, OR COPYRIGHTS, UNDER THE LAWS OF ANY NATION.**

9. **Exclusive Remedy; Returns; Credits.** Buyer's **EXCLUSIVE** remedy against KAYTECH for any claim for, or arising out of, any defect or nonconformity in a Good is the direct cost of repair or replacement of the Good, or alternatively, at KAYTECH's sole election, a refund of the purchase price of the Good. KAYTECH is not responsible for obtaining access to, or uninstalling, installed Goods, delivering replacement Goods to the installation site, or installing replacement Goods. Buyer's **EXCLUSIVE** remedy against KAYTECH arising out of any defect in, or in connection with, any Service provided hereunder is the re-performance of that Service or, at KAYTECH's sole election, a refund of the purchase price of the Service. These remedies are available to Buyer for one (1) year after the Good is tendered or the Service is performed, and KAYTECH's obligations under this Section 9 will be void unless Buyer provides KAYTECH with notice of the defect within 30 days of the date Buyer discovered or should have discovered the defect. If Buyer returns any Good to KAYTECH for repair, replacement or refund, it shall utilize KAYTECH's return material authorization procedures then in effect. Returns are subject to manufacturer policies. Returns may be subject to restocking fees. Returns will not be accepted for (a) custom orders or (b) Goods that have been modified, damaged, or not in their original packaging. Buyer must use any credit KAYTECH issues within one year from the date of issuance. Any unused credit or portion thereof not used after two (2) years could be subject to states' unclaimed property laws.

10. **Limitation of Liability.** **NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT TO THE CONTRARY, IN NO EVENT WILL: (A) KAYTECH BE LIABLE TO BUYER FOR ANY CIRCUMSTANTIAL, CONSEQUENTIAL, CONTINGENT, EXEMPLARY, INCIDENTAL, INDIRECT, LIQUIDATED, PUNITIVE, SPECIAL, SPECULATIVE OR OTHER DAMAGES, (B) KAYTECH BE LIABLE FOR LOST PROFITS, SALES OR REVENUES, COST OF REPLACEMENT GOODS BUYER PURCHASES FROM OTHERS, LOST BUSINESS OR BUSINESS INTERRUPTIONS, OR ATTORNEYS FEES OR COURT COSTS ARISING IN ANY MANNER PURSUANT TO OR IN CONNECTION WITH THE AGREEMENT, THE GOODS OR THE SERVICES (EVEN IF KAYTECH IS MADE AWARE OF THE POTENTIAL FOR SUCH DAMAGES); AND (C) KAYTECH'S TOTAL LIABILITY RELATED TO ANY GOOD OR SERVICE EXCEED THE PURCHASE PRICE OF SUCH GOOD OR SERVICE. THESE LIMITATIONS APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.**

11. **Indemnification.**

a. Upon prompt notice by Buyer of any claim of United States patent, copyright, or trademark ("**IP**") infringement with respect to any Goods, KAYTECH will use its reasonable efforts to secure for Buyer such indemnity rights as the Goods' manufacturer may offer. This Section 11 is Buyer's sole and exclusive remedy against KAYTECH regarding the infringement by any Goods of any third-party IP rights.

b. Buyer shall indemnify, defend and hold harmless KAYTECH, its shareholders, officers, directors, employees, agents and representatives (each, an "**Indemnified Party**") from and against all losses, damages, liabilities, costs, and expenses including, but not limited to, property damage, loss of profits or revenue, loss of use of any property, cost of capital, cost of purchased or replacement power or temporary equipment, personal or bodily injury, or death ("**Losses**"), that may arise pursuant to or in connection with the Agreement, the Goods, or the Services (including, without limitation, (a) Losses arising in connection with the performance of Services on Buyer's premises by KAYTECH's employees, representatives, agents, or subcontractors), and (b) Losses arising from actual or alleged infringements of a third party's intellectual property rights caused by (i) KAYTECH having followed Buyer's specifications, instructions or designs relating to the Goods or Services, (ii) Buyer's continued use of the Goods or Services after KAYTECH has informed Buyer of modifications required to avoid infringement, or (iii) modifications of the Goods or Services other than by KAYTECH, in each instance regardless of whether such Losses are suffered directly by Buyer or arise pursuant to or in connection with a third-party suit, claim, counterclaim, demand, judgment or other action (each, a "**Claim**") and, to the extent permitted by law, regardless of whether any Indemnified Party or any third party is negligent, provided that Buyer need not indemnify KAYTECH for KAYTECH's obligation, if any, to Buyer under Section 9. For the avoidance of doubt and without limitation, this indemnification obligation requires Buyer to pay any judgments against any Indemnified Party resulting from any Claim, court costs, and reasonable attorneys' fees and disbursements incurred in defense of any Claim. KAYTECH has the sole and exclusive right to conduct the defense of any Claim at Buyer's sole expense. Buyer's indemnification obligation does not depend on the truth or accuracy of any allegations made against an Indemnified Party, Buyer or any third party.

12. **Product Suitability.**

a. Unless otherwise agreed in writing, although KAYTECH may provide Buyer with advice regarding Goods or installation/use recommendations, such advice shall not be deemed to be a recommendation, endorsement or guarantee. Buyer acknowledges that if it follows such advice, it does so at its own risk.

b. Goods sold by KAYTECH are designed to meet stated United States safety standards and regulations. Because local safety standards and regulations may vary significantly, KAYTECH cannot guarantee that the Goods meet all applicable local requirements. Buyer assumes responsibility for compliance with all safety standards and regulations in the localities in which the Goods will be shipped, sold and used. Unless KAYTECH has agreed to install a Good, KAYTECH is not responsible for the installation and/or use of a Good. Before purchase and use of any Goods, Buyer should review the Goods' application, and all applicable regulations, codes, and

standards, and verify that the installation and use of the Goods will comply with them. Unless otherwise agreed in writing by an authorized KAYTECH representative, Goods sold hereunder are not intended for use or in connection with (a) any safety application, unless the Good is specifically designed and marketed as a safety product, (b) the containment area of a nuclear facility, or (c) in a healthcare application where the Goods have potential for patient contact.

13. **Ownership.** KAYTECH has and shall retain all right, title, and interest in and to any and all trade secrets, technical data, sales service and product plans, methodologies, techniques, designs, molds, tools, samples, systems, know-how, expertise and other proprietary information that it may use pursuant to or in connection with any Services, and Buyer shall not obtain a license to, or any other property rights in, any such KAYTECH property pursuant to or in connection with this Agreement.

14. **Export Controls; Availability; Laws.**

a. Buyer represents and warrants that it is not designated on, or associated with, any party designated on any U.S., United Nations, or European Union government restricted parties or sanctions list, including without limitation, the U.S. Commerce Department Bureau of Industry and Security (“BIS”) Denied Persons List; Entity List or Unverified List; the U.S. Treasury Department Office of Foreign Assets Control (“OFAC”) Specially designated Nationals and Blocked Persons List; or the U.S. State Department Directorate of Defense Trade Controls (“DDTC”) Debarred Parties List.

b. Goods may be subject to export controls under the laws, regulations and/or directives of the United States and other countries, in which case, these Goods are only authorized for use (e.g., via a government-approved and issued export license, which Buyer must obtain) by the ultimate end-user in the destination identified in the transaction documents between Buyer and KAYTECH. Buyer shall comply with such laws and regulations, failing which, Buyer shall indemnify, defend, and hold harmless KAYTECH for Buyer’s compliance lapses in this regard. Buyer will not export, re-export or transfer, or cause a deemed export or re-export of, these Goods (in their original form or after being incorporated into other items) to any country or person to which/whom export, re-export, or transfer (actual or deemed) is prohibited or without first obtaining all required authorizations or licenses. Buyer’s obligations under this clause shall survive the expiration or termination of the Agreement.

c. Buyer warrants and represents that it will comply with all Laws with respect to the purchase, use, and operation of any and all Goods and Services. “Laws” means any international, multinational, national, foreign, federal, state, municipal, local (or other political subdivision) or administrative laws, constitutions, statutes, codes, ordinances, rules, regulations, requirements, standards, policies or guidances having the force of law, treaties, judgments or orders of any kind or nature whatsoever, including, without limitation, any judgment or principle of common law.

d. Buyer shall refrain from taking any action that may cause a KAYTECH employee to violate a United States law. Buyer warrants that it has not, and will not, offer or give any gift or gratuity with a view towards influencing any person or government official in connection with any order for Goods or Services. Any breach of this provision shall constitute a material breach of this Agreement.

15. **Interpretation of the Agreement; Integration; No Waiver.** None of KAYTECH’s or Buyer’s shareholders, directors, officers, partners, managers, employees, agents or representatives have any authority to orally modify or alter in any way the terms and conditions of the Agreement. The terms, conditions, and limitations set forth in the Agreement can be modified, altered, or added to only by a subsequent written instrument signed by an authorized representative of KAYTECH or by language included on the face hereof. Regardless of how many times Buyer purchases, or has purchased, goods and services from KAYTECH by whatever means, each time Buyer accepts the Agreement, Buyer and KAYTECH enter into a separate agreement that will be interpreted without reference to any other agreement between Buyer and KAYTECH, or what Buyer may claim to be a

course of dealing or course of performance that has arisen between Buyer and KAYTECH. No inconsistent usage of trade or industry custom, if any, prior to, contemporaneous with or subsequent to the making of the Agreement will waive, vary, serve to explain or serve to interpret any of the terms, conditions and limitations of the Agreement. The Agreement is the sole and exclusive agreement with respect to the matters set forth herein and the provision of Goods and Services hereunder (except for any contemporaneous writing agreed to in writing by KAYTECH expressly modifying the terms and conditions hereof, which is hereby incorporated herein by reference and made a part hereof) and supersedes all prior and contemporaneous agreements and understandings, negotiations, inducements, representations and conditions, whether oral or written, express or implied, with respect to such matters. KAYTECH’s failure to enforce any of the terms, conditions and limitations of the Agreement will not constitute a waiver of those terms, conditions and limitations or a waiver of any other terms, conditions or limitations of the Agreement, and KAYTECH’s failure to exercise any right (whether provided by the Agreement, law, equity, or otherwise) arising from Buyer’s default under the Agreement will not constitute a waiver of that right or any other rights.

16. **Force Majeure; Limited Availability.** KAYTECH is not liable for its failure to perform under the Agreement (including, without limitation, the failure to deliver any Goods or perform any Services) due to circumstances beyond its control, including, without limitation, fire, flood, earthquake, pestilence, epidemic, pandemic, public health crisis, or other catastrophe; war, act of terrorism, or strike; lack or failure of transportation facilities, shortage of suitable parts, materials or labor; any existing or future law, rule, regulation, decree, treaty, proclamation, or order of any governmental agency; inability to secure fuel, materials, supplies, equipment

or power at reasonable prices or in sufficient amounts; act of God or the public enemy; or any other event or cause, whether similar or dissimilar, beyond KAYTECH's reasonable control, including, without limitation, any delay caused by Buyer, regardless of whether the circumstance arose before or after the effective date of the Agreement (each, a "Force Majeure Event"). If any Force Majeure Event prevents KAYTECH's performance of any of its obligations under the Agreement, including but not limited to delivery and cost savings obligations, KAYTECH has the right to (a) change (in whole or in part), terminate or cancel the Agreement, or (b) omit during the period of the Force Majeure Event plus any additional amount of time required to resume performance all or any portion of the quantity of the Goods deliverable during that period, whereupon the total quantity deliverable under the Agreement will be reduced by the quantity omitted. If KAYTECH is unable to supply the total demands for any Goods to be delivered under the Agreement due to circumstances beyond its control, including a Force Majeure Event, KAYTECH has the right to allocate its available supply among its customers in whatever manner KAYTECH deems to be fair and equitable. In no event will KAYTECH be obligated to purchase materials from other than its regular sources of supply in order to enable it to supply Goods to Buyer under the Agreement. No change, cancellation or proration by KAYTECH will be deemed to be a breach of the Agreement.

17. **Choice of Law; Choice of Venue; Severability; Waiver of Jury Trial.** The negotiation, execution, performance, termination, interpretation and construction of the Agreement is governed by the law of the State of New York, except for New York's choice of law rules, and expressly excluding the United Nations Convention on Contracts for the International Sale of Goods. **IN THE EVENT OF LITIGATION PERTAINING TO ANY MATTER COVERED BY THE AGREEMENT, KAYTECH AND BUYER EACH HEREBY AGREE TO WAIVE ANY RIGHT THAT IT MAY HAVE TO A JURY TRIAL OF ANY OR ALL ISSUES.** Nothing contained in the Agreement will be construed to limit or waive any KAYTECH's rights under United States federal, state, or local laws. Any provision of the Agreement held to be invalid, illegal or unenforceable will be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof.

18. **Binding Authority; Assignment.** Any individual signing or otherwise entering into this Agreement on behalf of Buyer hereby represents and warrants that he or she is duly authorized to execute and enter into this Agreement on Buyer's behalf. Buyer may not assign this Agreement without KAYTECH's prior written consent.

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