

## TERMS OF SALE AND DELIVERY AND LIMITED WARRANTY

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of SchuF USA, Inc. 486 Longpoint Road, Mount Pleasant, SC 29464, USA, Telephone Number 843 881 3345, fax number 843 881 6121 (hereinafter "Vendor").

### 1. Applicability of These Vendor Terms and Conditions to All Transactions

- 1.1 All of the following Terms of Sale and Delivery ("Terms") shall apply to all deliveries, services and offers of the Vendor. All of the following Terms are hereby incorporated into all agreements concluded between the Vendor and its contractual partners (hereinafter also referred to as the "Clients," "Client(s)," or "Client") regarding deliveries, offers and services offered by Vendor to Clients. All of the Terms herein also apply to all subsequent services, deliveries and/or offers to the Clients, unless modified in writing solely by Vendor pursuant to the terms contained herein.
- 1.2 Terms and conditions contained herein supersede, replace, and invalidate all Terms and Conditions of the Client or of third parties which may otherwise relate to transactions between Vendor and Client(s). No act of Vendor or Vendor's agents or employees, either orally or in writing, may be construed as acceptance of any terms and conditions of any person or entity other than Vendor with respect to transactions between Vendor and Client(s).

### 2. Offer and Conclusion of an Agreement

- 2.1 Any offer made by Vendor to a Client or potential Client is subject to modification or withdrawal by Vendor at any time prior to formal written acceptance of all terms of the specific offer by Client or potential Client, and such offer shall not be a binding, firm offer, unless such offer is expressly identified in writing as a binding, firm offer and contains specific terms for acceptance. Irrespective, the Vendor reserves the right to accept, decline or propose a counter-offer to a purchase order from a Client or potential Client within 14 days after Vendor's receipt of such purchase order from Client or potential Client, and there shall be no valid, binding contract between Vendor and Client at any time until Vendor and Client have agreed in writing upon all terms of a purchase order submitted by Client.
- 2.2 A contractual relationship, and negotiations leading up to such contractual relationship, between Vendor and Client shall be governed solely by: 1) the Terms of Sale and Delivery contained herein (at all times), and 2) the terms of the purchase agreement once such purchase agreement has been duly executed by way of dated, written signatures of authorized representatives of both Vendor and Client. The purchase agreement and the Terms of Sale and Delivery Contained herein fully and completely reflect any and all understandings between the contractual parties regarding the subject matter of the purchase agreement. Vendor and Client or potential Client agree that any oral statements made by the Vendor or anyone acting on behalf of Vendor prior to the final execution of the purchase order are not legally binding. As such, any offers from the Vendor, to be legally acceptable, shall be in writing. Any prior oral agreements, oral discussions, course of dealing or otherwise between the Vendor and Client or potential Client are replaced and superseded by the theses Terms of Sale and Delivery and executed written purchase order.
- 2.3 Any amendment or modification to a fully executed purchase agreement or to the Terms of Sale and Delivery contained herein, is invalid and unenforceable unless such amendment or modification is in the form of a writing that has been executed by the Client and a duly authorized representative of Vendor. With the exception of managing directors of Vendor and Vendor's legal counsel, the Vendor's agents and employees have no authority to enter into modification or amendment agreements differing hereof. Compliance with the writing requirements contained herein may be accomplished by facsimile transmission. Transmission by way of e-mail does not meet the writing requirements contained herein, with the exception of that which is expressly stated in subparagraph 5.5 below.

2.4 Client or potential Client acknowledges that Vendor's delivery or service details (e.g., but not limited to, weights, dimensions, consumption levels, stress levels, tolerances and technical data) including drawings thereof (e.g., but not limited to, technical drawings and illustrations) are only approximate, unless it has been agreed upon in writing signed by the Vendor and Client or potential Client that an exact match is required. Vendor's delivery or service details described above shall not be considered guaranteed features (*garantierte Beschaffenheitsmerkmale*) but rather descriptions of the goods and services. Standard commercial deviations or deviations by Vendor resulting from regulatory changes or technical improvement, as well as the replacement of components with similar parts by Vendor, shall be permissible to the extent that such deviations do not affect usability by Client or potential Client.

2.5 All offers and quotations provided by Vendor, as well as any drawings, images, calculations, literature, catalogues, models, tools and other documents and means provided to the Client constitute valuable intellectual property of Vendor in the form trade secrets, copyright, trademark and/or patents. By entering into discussions with, making an offer to, or entering into an agreement with, a Client or potential Client, Vendor in no way transfers any percentage of its ownership in the above described intellectual property. The Client or potential Client shall not at any time divulge to a third party or parties such aforementioned information provided by Vendor, or use (via itself or via a third party or parties), or duplicate such information provided without the express written consent of a duly authorized representative of the Vendor. Upon the Vendor's request at any time, or if negotiations do not lead to the conclusion of a written agreement between the parties, the Client shall to return to Vendor the aforementioned information provided and destroy any copies that were made.

### **3. Prices and Payment**

3.1 Quoted prices apply to the scope of service and delivery stated in the order confirmation. Additional or special services or deliveries are invoiced separately. The prices are generally stated in United States Dollars ex works, in case of export delivery plus customs and other public duties, unless another currency or other terms have been agreed upon.

3.2 To the extent the prices initially agreed upon are based on the Vendor's list prices and the delivery, for any reason, shall be made more than four months after the initial agreement as to price has been reached, the Vendor's list prices at the time of delivery shall replace the initially agreed upon price and Client shall pay the list prices at the time of delivery (applying the same percentage rebates or fix rebates as agreed).

3.3 Outstanding invoices shall be paid in full within 30 days of transmittal of the same by Vendor to Client without any deduction, unless otherwise agreed in writing by a duly authorized representative of Vendor.

3.4 If Vendor has not received full payment within the payment period as set forth in sec. 3.3, Client shall be in default as of the 31st day following transmittal of the invoice, without a reminder notice. Interest at the rate set forth in Section 34-31-20(A) of the South Carolina Code of Laws shall be applied on any outstanding amounts from the date of default. Upon default, payment of the full amount owed and accrued interest, and acceptance of the same by Vendor, does not constitute a waiver by Vendor to any additional damages to which it may be entitled from Client as a result of such default.

3.5 The Vendor has the right to, and will only, carry out any outstanding deliveries or render outstanding services only with advance payment or securities if it becomes aware of circumstances, which may significantly reduce the Client's financial standing and which may jeopardize the Client's payment of the Vendor's outstanding receivables owed to the Vendor (including from other individual orders to which the same framework agreement applies).

#### **4. Cancellation of Orders**

If the Client wishes to cancel an order in part or in total after the Vendor and Client have executed a written agreement, it shall promptly notify the Vendor thereof in writing, specifying which parts of the order Client wishes to cancel. A (partial) cancellation shall only be effective, if and to the extent the Vendor acquiesces to the same by way of written cancellation confirmation. Unless there is a higher cancellation cost to Vendor in an individual case than that set forth below, verified by Vendor (in which case the Client shall pay the higher cancellation cost), the Client shall pay a fixed cancellation fee that shall be calculated as follows, depending on the date of receipt by the Vendor of the written cancellation request:

- a. 10% of the cancelled order amount if Vendor receives and approves the cancellation request after Vendor has sent the order confirmation but has not yet sent the technical drawings for approval,
- b. 30% of the cancelled order amount if Vendor receives and approves the cancellation request after sending the technical drawings for approval but before such technical drawings have been approved,
- c. 40% of the cancelled order amount if Vendor receives and approves the cancellation request after the technical drawings have been approved but before substantial amounts of materials for the production of the cancelled parts have been received by the Vendor,
- d. 50% of the cancelled order amount if Vendor receives and approves the cancellation request after substantial amounts of materials for the production of the cancelled parts have been received by the Vendor but before production on behalf of the client has started,
- e. at least 60% and up to 100% (in the sole discretion of Vendor) of the cancelled order amount, depending on the production status, if Vendor receives and approves the cancellation request after production on behalf of the Client has started.

#### **5. Delivery and Time of Delivery, Force Majeure, Partial Deliveries**

- 5.1. Deliveries take place, at the Vendor's discretion, ex works or ex stock at the expense of the Client.
- 5.2. Delivery periods and dates given by the Vendor are non-binding estimates only, unless a fixed period or fixed date is explicitly agreed to in writing by the Vendor. To the extent the agreement provides for shipment, any delivery periods and dates given shall refer to the date on which the goods are handed over by Vendor to the shipper, carrier or other third party commissioned for carrying out the shipment.
- 5.3. Without prejudice to Vendor's rights with respect to any default by the Client, the Vendor may request from the Client an extension of the delivery and performance periods previously agreed upon, or, during such time that the Client is not observing all of its contractual obligations towards the Vendor, Vendor may indefinitely refrain from delivery and/or performance,. Due to the high specialization of the Vendor's methods and goods, it is typically necessary for the Client to review and approve technical drawings. Should the Client fail to review such drawings within the reasonable deadlines set by the Vendor, the agreed delivery dates shall automatically be postponed by the corresponding number of days.
- 5.4. The Vendor shall not be liable to Client in any manner if delivery becomes impossible due to force majeure or other events which could not be foreseen at the time of the conclusion of the agreement (e.g., but not limited to, any kind of disruption of operations, difficulties in the procurement of material or energy, delays in transportation, strikes, legal lockouts, a lack of workers, energy or raw materials, acts of God, difficulties in the procurement of the necessary official permits, administrative actions (such as embargos) or outstanding, incorrect or delayed deliveries by suppliers), or for reasons in which the Vendor is not responsible or are out of the Vendor's control. If these events make it significantly difficult or impossible for the Vendor to deliver the

goods or render the services and the events are not merely temporary, the Vendor has the right to rescind the agreement in totum with no liability whatsoever to Client.

- 5.5 If the obstacles referred to in subparagraph 5.4 are only temporary, the periods for delivery or performance shall be extended or the dates for delivery or performance shall be postponed for an amount of time equaling the duration of the obstacle plus an appropriate start-up time. The Vendor will inform the Client promptly of the reason of the delayed delivery and will indicate the foreseen new delivery date, if possible. In this case the transmission via e-mail satisfies the written form requirement, notwithstanding section 2.3 above.
- 5.6 The Vendor is entitled at any time to make partial deliveries and accordingly issue invoices for delivered items, unless Client provides written good cause (determined in the sole discretion of Vendor) as to why such partial delivery would be untenable. If a partial delivery is made, the delivered part is built in and only accessories or documentation is missing, the Client may withhold a reasonable fraction (not to exceed 5%) of the invoice amount owing for this partial delivery and pay such withheld fraction immediately at such time as the delivery is complete.
- 5.7 Should the Vendor default with respect to a delivery or with respect to the performance of services, or should Vendor's delivery or performance of services become impossible, irrespective of the cause, the Vendor's liability, and Client's right to damages, shall be limited as set forth in section 5.4 and section 9 of these Terms of Sale and Delivery.

## **6. Place of Performance, Shipment, Transfer of Risk, Acceptance**

- 6.1 The place of performance for all obligations arising from the contractual relationship is SchuF USA, Inc. 486 Longpoint Rd, Mount Pleasant, SC 29464.
- 6.2 For all orders, the choice of shipping route, mode of shipment and packaging are subject solely to the Vendor's reasonable discretion according to the agreed terms of delivery.
- 6.3 All risks related in any way to the shipping process shall be borne solely by the Client at such time as the product or products leave(s) Vendor's custody and is/are placed by the Vendor into the hands of the shipper, the forwarder or any other third party commissioned for carrying out the shipment upon relinquishment of the product(s) by Vendor. This provision also applies in the case of partial deliveries, if a carriage-free delivery has been agreed upon, or if the Vendor has specifically assumed other services in writing (e.g. shipment). If the shipment or the handing over is delayed due to circumstances for which the Client is responsible, all risk relating to the transaction subject to these Terms and Conditions and the purchase order shall be borne by the Client on the day delivery item is ready for shipment by Vendor and the Vendor has informed the Client accordingly.
- 6.4 The Client bears all storage costs after the transfer of aforementioned risk.
- 6.5 The Vendor shall insure the shipment against theft, breakage, transport damage, fire loss, water damage or other insurable risks only upon the Client's express written request to Vendor (and Vendor's written agreement to do so), and Vendor will do so only at the Client's pre-paid expense.
- 6.6 To the extent the Vendor and Client have agreed in writing that the purchased goods must be formally accepted by Client, they are deemed accepted if:
  - a. the goods have been delivered to Client and, if the Vendor has agreed to install the goods, installation has been completed and the client has been so informed.
  - b. ten working days have passed since the delivery or installation of the purchased goods and the Client has not started using the purchased goods, or five working days have passed since the delivery or installation and the Client has started using the purchased goods, or

- c. the Client has not accepted the purchased goods within ten working days for a reason other than a defect reported to the Vendor, such defect making the use of the purchased goods impossible or compromising it significantly.

## 7. Limited Warranty and Defects

- 7.1 Subject to the terms and limitations contained herein, Vendor's product is warranted for one year from the date of delivery or, if the Vendor and Client have agreed in writing that the Client must formally accept the goods for the transaction between the parties to be complete, one year from the date of acceptance. Vendor warrants that during the above stated time period, the product delivered will be free of manufacturing defects. The Vendor only warrants the correct mechanical function of its valves in circumstances where the Client has previously fully informed the Vendor, prior execution of the purchase order between Vendor and Client, of all operating conditions and all characteristics of the medium in which the valve shall be used. As to any defects discovered after the Warranty Period, there is no warranty or condition of any kind. **The express warranty stated above is the only express warranty made to Client and is provided in lieu of all other express or implied warranties and conditions, including any created by any other documentation or packaging, and including any implied warranty of merchantability or fitness for a particular purpose.** No information or suggestions (oral or in a writing) given by Vendor, its agents, affiliates, suppliers, employees, or agents, shall create an express or implied warranty or condition or expand the scope of this Limited Warranty.
- 7.2 It is the duty of the Client or third party designated by the Client to carefully inspect the goods promptly upon receipt. They are deemed accepted by Client if the Vendor does not receive a written notice of a defect within 7 working days after delivery of the product with respect to obvious defects or non-obvious defects which could have been detected during an immediate, careful inspection; or within 7 working days after the discovery of a non-obvious defect that could not be detected during an immediate, careful inspection but which is discovered by the Client during normal use of the product. Upon the Vendor's request, the rejected product must be sent back to the Vendor carriage free. In case of a justified notice of defect as determined solely by Vendor,, the Vendor will reimburse the Client for the cost of the return shipment, pursuant to the least expensive shipping method; Vendor shall not reimburse the Client for additional costs incurred due to the fact that the product is located at place other than where it was initially shipped to Client.. The Client's failure to state the defect in connection with rejection of a particular defect which is ascertainable by reasonable inspection precludes Client from relying on the unstated defect to justify rejection or to establish breach where the seller could have cured it if stated seasonably, or when the Vendor has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.
- 7.3 Subject to the limitations contained herein, if, upon inspection by the Vendor a delivered product is deemed defective and the good is still under warranty as described herein, the Vendor shall repair or replace the defective good, and the decision whether to repair or replace shall be at the sole discretion of the Vendor, such decision to be made within a reasonable period of time. Any repaired or replaced product will be new or refurbished or serviceably used, comparable in function and performance to the original Product, minus defect, and may include third party items. Any product repaired or replaced under this Limited Warranty will be warranted for the remainder of the original Warranty Period or 30 days from the date of shipment of the item back to Client, whichever is longer. In a circumstance where the defect cannot be cured by Vendor, e.g. because repair or replacement is impossible, has not been cured after at least two attempts to repair or replace, or Vendor refuses to cure despite the product being under limited warranty, the Client may rescind the defective partial delivery or reduce the overall purchase price to an amount agreed in writing by Vendor.

- 7.4 If a defect is the fault of the Vendor, and repair or replacement has failed, the Client may also request additional remedies specified in section 9.
- 7.5 If the complained of product is unacceptable to Client as a result of a defect of a product or part(s) manufactured by a third party, and such defect cannot be cured by the Vendor for any reason, the Vendor shall, at its sole discretion either assert, on behalf of Client, Vendor's warranty claims against the manufacturer(s) and/or supplier(s) of the defective part or product, or assign such warranty claims to the Client. The Client may only bring warranty claims against the Vendor for such third party product or parts defects, and only in accordance with these Terms of Sale and Delivery and provided all other prerequisites are met, and only after all attempts to enforce the aforementioned claims against the manufacturer and supplier through the judicial system has been unsuccessful or if enforcement is futile, e.g. due to insolvency. While the judicial process against the third party manufacturer or supplier is pending, the statute of limitations with respect to any potential warranty claims by Client against Vendor shall be stayed.
- 7.6 This Limited Warranty shall not apply and Vendor has no liability under this Limited Warranty if Vendor's product is modified or tampered with; is damaged by Acts of God, misuse, abuse, negligence, accident, wear and tear, mishandling, misapplication, or other causes unrelated to defects in the product; is damaged during delivery, shipments or transmissions, is not used in accordance with accompanying documentation and use instructions; or is repaired, modified or altered by other than Vendor or agent/representative of Vendor and the unauthorized repair person or facility causes or contributes to any defect or damage.
- 7.7 To the extent allowed by applicable law, this Limited Warranty is only made to Client, the first user or purchaser of Vendor's product, and there are no third party beneficiaries of the Limited Warranty. Except as required by law, this Limited Warranty is not intended for and does not apply to anyone else, including anyone to whom Client makes any transfer as authorized herein or in any other written agreement between Vendor and Client.
- 7.8 This Limited Warranty gives Client specific legal rights and Client may also have other rights which vary from jurisdiction to jurisdiction. Where any term of this Limited Warranty is prohibited by such laws, such term shall be null and void, but the remainder of the Limited Warranty shall remain in full force and effect if its allocation of risks is not materially disturbed.

## **8. Intellectual Property Rights**

- 8.1 In accordance with this paragraph 8 and its subparts, the Vendor warrants that the product manufactured by vendor does not infringe upon any third party or parties intellectual property rights. Each party to this agreement shall inform the other party to this agreement promptly in writing if any third party claims are asserted against them alleging infringement of such intellectual property rights.
- 8.2 If it is judicially determined, or the Vendor agrees, that the product delivered infringes upon a third party intellectual property right, the Vendor shall change or replace the product – the means of which at its own discretion and expense – in such a way that the third party rights are no longer infringed upon, but such that the product still meets the contractually agreed functions, or Vendor shall obtain a license from the owner of the intellectual property such that the Client may have full use of the product. If the Vendor is unable to change, replace, or obtain a needed license for the product within a reasonable period of time, the Client shall have the right to withdraw from the agreement or reduce the purchase price to an amount agreed upon in writing by Vendor and Client. Any Client claim for damages as a result of the same shall be subject to the limitations contained in these Terms of Sale and Delivery.

- 8.3 If Vendor delivers a product manufactured by another manufacturer or containing parts or writings by another manufacturer, and such portion not manufactured or prepared by Vendor appears to violate a third party's intellectual property rights, the Vendor shall, at its sole discretion, either assert on behalf of itself or on behalf of the client, claims it, or the Client, may have against the alleged infringing manufacturer or supplier, or assign these claims to the Client for prosecution by the Client. In such an instance, under no circumstances shall the Client assert an infringement claim of any nature against the Vendor.

## **9. Limited Liability**

- 9.1 Any potential or actual Vendor liability under any circumstance, either legal or equitable, with respect to its relationship with Client or potential Client, including, but not limited to, as a result of Vendor's default, incomplete or incorrect delivery, breach of contract under any theory, breach of any obligations during the contractual negotiations, and/or unlawful acts, shall be limited according to this section 9.
- 9.2 Neither Vendor nor its corporate bodies, authorized representatives, employees or agents shall be liable to Client under any circumstance unless such liability is a direct result of a material breach of its contractual relations with client. Only the following acts or failures to act shall be considered a material breach of contractual relations with Client on the part of Vendor: (i) subject to prior provisions herein with respect to delivery and dates, failure to meet delivery periods and dates, but only to the extent such periods and dates have been expressly guaranteed in writing by the Vendor, (ii) subject to provisions herein relating to third party defects and tender of product to shipper, failure to deliver Vendor's product(s) to Client free of material manufacturing defects and (iii) failure to provide Client with proper instruction as to the use of Vendor's product to the extent it has previously been agreed to in writing that the Vendor shall do so.
- 9.3 To the extent Vendor agrees, or it has been judicially determined, that Vendor is liable to Client for damages under section 9.2, such liability shall be limited to actual damages which the Vendor could reasonably anticipate as a consequence of Vendor's breach. **IN NO EVENT WILL VENDOR, OR ANY OF ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS OR REPRESENTATIVES BE LIABLE FOR ANY: (i) CONSEQUENTIAL OR INCIDENTAL DAMAGES; (ii) DAMAGES FOR LOSS OF ANY NATURE WHATSOEVER RELATING TO LOST PROFITS, BUSINESS INTERRUPTION, ANY INABILITY TO USE ALL OR PART OF THE PRODUCT, PERSONAL INJURY, OR ANY FAILURE TO MEET ANY DUTY (INCLUDING BUT NOT LIMITED TO ANY DUTY RELATING TO NEGLIGENCE, GOOD FAITH OR OF WORKMANLIKE EFFORT); OR (iii) INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING IN ANY WAY TO VENDOR'S PRODUCT. THE FOREGOING APPLIES EVEN IF VENDOR OR ANY SUPPLIER, AFFILIATE OR AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES; AND EVEN IN THE EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE), STRICT OR PRODUCT LIABILITY, MISREPRESENTATION OR OTHER REASON.**
- 9.4 In the case of Vendor's liability under these Terms of Sale and Delivery and Limited Warranty, such liability under no circumstances shall ever exceed one million United States Dollars for each individual claim (in accordance with Vendor's current limit of liability of its product liability insurance or third-party liability
- 9.5 The limitations of liability set forth above with respect to Vendor, shall apply equally to Vendor's corporate bodies, authorized representatives, employees and other agents, and shall provide the same protection to such persons or entities as provided to Vendor under this Paragraph 9 and its subparts.
- 9.6 Should Client seek technical information or advice from Vendor, Vendor's corporate bodies, authorized representatives, employees or other agents of Vendor, which is not a part of the scope of services owed by Vendor to Client under a written contractual agreement, and Vendor or any of the entities listed above agree to provide such advice, such information or advice shall be provided free of charge and under no circumstances shall Vendor, its corporate bodies, authorized representatives, employees or other agents of Vendor be liable, directly or indirectly, to Client under any theory of liability, legal or equitable, for injury or damage either directly or indirectly resulting in any manner from rendering such advice.

- 9.7 Subject to the limitations set forth in these Terms of Sale and Delivery, if a delivery date expressly guaranteed in writing by Vendor is not met or if the Vendor is in default with respect to agreed upon written delivery terms, and such results in actual damages to the Client, the Client, upon proof of such actual damages shall be entitled to payment by Vendor pursuant to the following: Payment shall amount to 0.5 % per full week of delay, up to a maximum of 10% of the value of that portion of the order that cannot be used by the Client in accordance with the contract purpose due to the delay. Subject to the other limitations set forth in these Terms of Sale and Delivery, this shall constitute the sole and exclusive remedy to Client as a result of Vendor's failure to meet such delivery dates.
- 9.8 Irrespective of any other provisions contained in these Terms of Sale and Delivery, under no circumstance shall Vendor's liability to Client, under any theory of liability, either legal or equitable, exceed 20% of written agreed upon value of the product order at issue.

## **10. Retention of Title**

- 10.1 The Vendor retains ownership title of any goods supplied by it to Client until full payment by Client. As relates to this Paragraph 10, all deliveries are considered as one connected delivery transaction. In the case of a running account with a Client, the reserved ownership by Vendor until final full payment by Client on such account is considered security for a balance owed on such running account.
- 10.2 Until all accounts receivable have been settled with respect to a Client, if such Client combines the goods obtained from Vendor with other items resulting in one integrated product, the Client shall assign a pro-rata co-ownership interest to the Vendor in the integrated product, with such percentage interest to the Vendor equaling the percentage of Vendor's product as it relates to the whole of the integrated product. If Client has not paid Vendor in full with respect to all accounts receivable attributable to Client, Client shall notify any third party of Vendor's ownership interest in a product falling under this sub paragraph 10.2, prior to entering into a contractual arrangement with such third party. If the Client re-sells Vendor's manufactured product whether or not integrated into third party products, Client hereby assigns to Vendor all legal and equitable claims it may have against its customers, including all ancillary rights arising from the subject sale, until all of Vendor's accounts receivable attributable to Client have been paid in full and all damages to which Vendor is entitled under these Terms of Sale and Delivery have been paid in full, with interest at the prevailing legal rate.
- 10.3 If the Vendor concludes that it is at risk of Client not paying in full any accounts receivable attributable to the Client, the Client shall, upon Vendor's request, again notify any third party buyer of Vendor's ownership interest in a product manufactured by Vendor or product consisting of parts manufactured by Vendor, and Client shall transmit to the Vendor all necessary information and documents necessary for Vendor to assert its rights against such third party. . The Client shall inform the Vendor promptly with respect to any access of third parties to the goods described in this Paragraph 10 and its subparts, and with respect to all information and documentation Client has as to the aforementioned assigned claims.
- 10.4 The Vendor shall release the securities held for its benefit if they exceed the secured claims by more than 20 % in total.

## **11. Final provisions**

- 11.1 The venue for any disputes arising from the business relationship between the Vendor and the Client is at shall be City of Charleston, County of Charleston, State of South Carolina.
- 11.2 The relationship between Vendor and Client, including the interpretation and implementation of this and other Agreements between the two, shall be governed by the laws of the State of South Carolina. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) does not apply.

- 11.3 If any provision contained in these Terms of Sale and Delivery and/or contained in any other written agreement between Vendor and Client is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement shall continue in full force and effect.
- 11.4 Should any provision of these Terms of Sale and Delivery and/or of any other written agreement between Vendor and Client require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that this Agreement shall be more strictly construed against one party than the other.
- 11.5 Subject to the further restrictions contained in Paragraph 2.3 above, no waiver, amendment or modification of any provision of these Terms of Sale and Delivery, or of any other written agreement between Vendor and Client, shall be effective unless it is in writing, refers to the subject Agreement, and is signed by authorized representatives of both parties. No failure or delay by either party in exercising any right, power, or remedy under these Terms of Sale and Delivery, or of any other written agreement between Vendor and Client, except as specifically provided herein, shall operate as a waiver of any such right, power, or remedy. A waiver by either of the parties hereto of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant herein contained.