



Terms & Conditions of Sale

WARRANTY DISCLAIMER. Nautilus Abrasive Blasting and Powder Coating, LLC. (Nautilus) makes no express or implied warranties, including without limitation those of merchantability or fitness for a particular purpose or related to design, workmanship, materials, or otherwise, with regard to goods and products sold by, but not manufactured by, Nautilus. With regard to goods and products manufactured by Nautilus, see paragraph 8 below. **Nautilus makes no other express or implied warranties with respect to such goods.**

Any description of goods on the face of this document is for the sole purpose of identifying them and does not constitute a warranty of any kind.

1. Acceptance of Terms. This agreement consists of the following Terms and Conditions as well as the information set forth on the face of this document. By accepting delivery of the goods shown on this document, purchaser acknowledges that he has read and agrees to all Terms and Conditions of this agreement (hereafter the "Nautilus Terms and Conditions"). If the purchaser has submitted to Nautilus a credit application, the terms and conditions contained therein are incorporated as if fully set forth herein. No Terms or Conditions herein or in the Nautilus Credit Application may be changed except by written consent of either an Officer or the Manager of Credit Services of Nautilus. Any counter offers with terms and/or conditions different from the Nautilus Terms and Conditions, and the terms and conditions accompanying or incorporated into any purchase order submitted by purchaser, are expressly rejected.

2. Terms of Payment. Unless otherwise indicated by Nautilus on the face of this document, the total purchase price reflected by this document is due and payable upon delivery of said products. All payments hereunder must be in US dollars and made in cash, check, money order or other forms of payment accepted by Nautilus. All invoices which are not paid upon delivery of said products, and credit accounts which are delinquent, shall be assessed a 1.5% service charge (or the highest legal rate under applicable state law) for the period the invoice is not paid or the account is delinquent. No contractor or other discounts apply unless expressly set forth on the face of this document. No credit terms apply unless expressly set forth on the face of this document. Purchaser shall have no right to set-off against payment hereunder any amount which Nautilus may owe purchaser. Any sales taxes will be reflected on the face of this document and added to the total purchase price.

3. Terms of Delivery. Unless the purchaser and Nautilus agree in writing otherwise, all shipments are F.O.B. (Freight on Board) Nautilus Abrasive Blasting and Powder Coating, LLC. facility. The risk of loss of goods, in the event of a breach or otherwise, passes to the purchaser upon Nautilus delivery of the goods to the carrier for shipment. The purchaser shall provide Nautilus with the exact address of the place of delivery. Transportation charges when made freight prepaid by Nautilus will be charged on the invoice as freight and handling. Transportation charges in all other cases will be paid by the purchaser directly to the carrier.

4. Shortages. Shortage claims will not be considered unless made in writing within 10 days of the purchaser's receipt of the goods. Freight shortage or damage claims must be filed with the carrier.

5. Returns. Nautilus will not accept returned goods unless they fall within the warranty guidelines of the company or under special circumstances expressly acknowledged by Nautilus in writing, or pursuant to Paragraph 9 below. All return requests, that are pursuant to the Limited Warranty (see paragraph 8 below) must be made within 10 days of receipt of shipment and must be approved by Nautilus in writing. All written approvals will include the issuance of a Returned Goods Authorization Number. This number must be clearly marked on the outside of all cartons containing returned goods. Nautilus will refuse and return to the purchaser any goods returned to Nautilus without prior written approval and a valid return authorization number clearly marked on each carton. Goods returned to the purchaser for failure to observe this policy shall remain the purchaser's responsibility.

6. Non-Standard Products. Non-standard, special order or custom paint, powder and coatings are not subject to cancellation or return once the order has been placed by the purchaser. The purchaser shall be responsible for all costs Nautilus has incurred on any non-standard, special order, or custom order that is cancelled.

7. Products not Manufactured by Nautilus. All products not manufactured by Applied Systems carry the original manufacturer's warranty which excludes freight and/or labor (copies on request). Nautilus makes no express or implied warranties, including any warranties of merchantability or fitness for particular purpose or related to design, workmanship, materials, or otherwise, with respect to products not manufactured by Nautilus.

8. Limited Warranty for Products Manufactured by Nautilus. Nautilus warrants that all products manufactured by Nautilus will be free of defects in material and workmanship, for a period of one (1) year from shipment date (the "Limited Warranty"). The Limited Warranty does not cover the effects of normal wear and tear, abuse, abrasion, corrosion, extreme temperatures and/or improper storage, installation, or use, or force majeure, recondition or recoating/repainting of prior work performed by alternative suppliers, vendors, contractors or the like. The Limited Warranty is in lieu of all other warranties, express or implied, and Nautilus makes no other express or implied warranties, including any warranty of merchantability or fitness for a particular purpose, with respect to such products. The purchaser acknowledges that the Limited Warranty is Nautilus Abrasive Blasting and Powder Coating, LLC. only warranty. No verbal agreement(s) or representations by Nautilus agents or employees constitute a warranty of any kind. The purchaser acknowledges that all non-standard, special order or custom-made products have been produced by Nautilus in reliance on specifications and information provided by purchaser. The Limited Warranty is for the benefit of only the original purchaser, and may not be transferred or

assigned. Nautilus only warrants the actual product and is exclusive of all freight and/or labor. See our specific warranty page for more details, restrictions and coverages.

9. Purchaser's Remedy under One-Year Warranty.

If it becomes apparent within the one-year warranty period of the Limited Warranty that a product manufactured by Nautilus is in breach of the Limited Warranty, the purchaser must notify Nautilus promptly in writing and request return of the goods and a Returned Goods Authorization Number pursuant to paragraph 5 above. After receiving Nautilus approval described in paragraph 5 above, the purchaser may return such product directly to the place of shipment. Nautilus shall inspect properly returned products. If the returned products are determined by Nautilus to be in breach of the Limited Warranty, Nautilus at its own discretion shall repair the returned products, free of all charges except transportation costs. The correction of any defects by repair or replacement shall fulfill all of Nautilus' obligations and liabilities under the Limited Warranty and this agreement. The purchaser's sole remedy for breach of the Limited Warranty is the foregoing repair of the defective product. Without limitation of paragraph 13 below, Nautilus shall not be liable for special, consequential or incidental damages in any claim, action, suit or proceeding arising under the Limited Warranty. Returned products which are not determined defective shall be returned to purchaser and shall remain the purchaser's responsibility, including transportation costs.

10. Events Which Void Limited Warranty. The following events or occurrences shall terminate the Limited Warranty, and shall relieve Nautilus from any further responsibility thereunder: (a) purchaser's failure to promptly notify Nautilus of unsatisfactory operation, defects or any improper or unauthorized installation, maintenance, use, repair or adjustments; (b) the alteration or modification by any person other than Nautilus of products manufactured or supplied by Nautilus, and (c) operation of products manufactured or supplied by Nautilus in a manner other than as specified in written instructions supplied with such products by Nautilus.

11. Force Majeure. Nautilus shall not be liable for any expense, loss, or damage resulting from force majeure, including without limitation delay or prevention of performance caused by fires; floods; Acts of God; strikes; labor disputes; labor shortages; lack of or reasonable inability to obtain materials, fuel, supplies, or equipment; riots; thefts; accidents; transportation delays; an act or failure to act by the Government; a major equipment breakdown; or any other cause beyond the reasonable control of Nautilus.

12. Disclaimer of Damages for Improper Use.

Nautilus shall not be responsible for damage to its products, or damage caused by its products, resulting from improper installation and use, maintenance, unintended use or attempts to operate such products beyond their mechanical or electrical capacity, intentionally or otherwise, or any unauthorized repair or modification of its products.

13. Disclaimer for Incidental, Special and Consequential Damages. In no event will Nautilus be liable, whether arising under contract,



tort, strict liability, any statutory remedy, or any other cause of action whatsoever, for labor costs, loss of anticipated profits or goodwill, loss by reason of plant shutdown, non-operation or increased expense of operation, service interruption, cost of purchase or replacement power, claims of customers, cost of money, loss of use of capital or revenue, fines or penalties assessed or levied against purchaser based on the operation, non-operation, or use of the goods, or for any special, incidental, or consequential loss or damage of any nature, arising at any time from any cause whatsoever.

14. Field Repairs. Any in-field repairs of products claimed by purchaser to be in breach of the Limited Warranty must be approved by Nautilus prior to repairs being performed. Any in-field repairs performed for any other cause, or not approved in advance by Nautilus, will void the Limited Warranty in full.

15. Alterations to Products. Any alterations to products performed during while the Limited Warranty is in effect will void the Limited Warranty and relieve Nautilus from all liability under the Limited Warranty.

16. Limitation of Liability. Notwithstanding any other provision of this agreement, Nautilus' cumulative maximum liability under this agreement arising from any cause whatsoever, including but not limited to breach of contract, quasi-contract, tort (including negligence), strict liability, any other statutory remedy, breach of warranty, or any other cause or form of action whatsoever will not exceed the original purchase price.

17. Catalog. All information, recommendations and suggestions appearing in Nautilus catalog and web page are based upon tests and data believed to be reliable. However, it is the purchaser's responsibility to determine the suitability of Nautilus products for each application. Nautilus reserves the right to change the prices set forth in its catalog at any time and without notice to the purchaser or other customers. The catalog is not a part of this agreement.

18. Breach and Remedies. Any failure by the purchaser to tender full payment when due, or any wrongful rejection or repudiation of the Nautilus Terms and Conditions shall constitute a material breach, and shall entitle Nautilus to pursue any or all of its remedies under the Uniform Commercial Code and applicable state law. Nautilus remedies are cumulative and shall include without limitation: (a) Withholding delivery of products; (b) Stopping delivery by the carrier; (c) Reselling the products and recovering damages; (d) Recovering damages for non-acceptance and/or nonpayment; (e) Canceling this agreement; and, (f) Reclaiming delivered products.

19. No Waiver. Any delay or failure by Nautilus to enforce or pursue any or all of its remedies upon a breach by purchaser shall not be construed as a waiver of Nautilus rights under this agreement or applicable state law. Any waiver of Nautilus rights or claims under this agreement must be in writing signed by Nautilus and given in exchange for valuable consideration.

Terms & Conditions of Sale

20. Assignment and Delegation. No right or interest under this agreement may be assigned by either party without the written consent of the other party. No duty or obligation under this agreement may be delegated by either party without the written consent of the other party. Any assignment or delegation not consented to in writing is void.

21. Entire Agreement. The Nautilus Terms and Conditions set forth herein and the Nautilus Credit Application, if applicable, constitute the entire agreement between purchaser and Nautilus and supersede any prior or contemporaneous representations or agreements, written or oral. No additional oral or written terms, including any attempts by purchaser to modify the Nautilus Terms and Conditions or any other document relating to this sale, shall become a part of this agreement without the express written consent of Nautilus.

22. Severability. If any part of this agreement is deemed unenforceable for any reason, the remainder of the agreement and the Nautilus Terms and Conditions shall remain in full force and effect.

23. Governing Law. This agreement shall be construed under and controlled in all respects by the law of the state of California without regard to conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable to this agreement.

24. Disputes. If there is any dispute about or involving this agreement, purchaser agrees that the dispute shall be governed by the laws of the State of California, USA, without regard to conflict of law provisions and purchaser agrees to exclusive personal jurisdiction and venue in the state and federal courts of the United States located in the State of California, City of Moreno Valley.

25. Headings. All headings are organizational devices only. They are not intended by the parties to have any legal import.

26. Attorney's Fees. In the event that Nautilus is the prevailing party in any action or proceeding to enforce its rights under or arising from this agreement, Nautilus shall be entitled to its actual attorney's fees and court costs, unless the law of the forum state requires that the prevailing party or either party be entitled to attorneys' fees, in which event the Nautilus Terms and Conditions are modified to incorporate the forum state's requirements.

27. Inspection and Rejection of Non-Conforming Goods. Purchaser has the right to inspect the products delivered pursuant to paragraph 3 promptly upon receipt, but not later than two (2) days following receipt. Purchaser, at its sole option, may inspect all or a sample of such products, and may reject all or any portion of the products if it determines the products are nonconforming or it is apparent that the products are in violation of the Limited Warranty. If purchaser rejects any portion of such products for such reasons, purchaser has the right, effective upon written notice to Nautilus, to: (a) rescind its order in its entirety; (b) accept such products at a reasonably reduced price mutually agreeable to purchaser and Nautilus; or (c) reject such products and require repair of the rejected

products. If purchaser requires repair of such products, Nautilus shall, at its expense, within the original lead time and dependent upon Nautilus production work load repair the nonconforming products excluding all transportation charges. If Nautilus fails to timely deliver repaired products, purchaser's sole remedy shall be to terminate its order. Any inspection by purchaser under this paragraph shall not prejudice the right of purchaser to conduct further inspections after Seller has carried out its remedial actions.

28. Intellectual Property. Nautilus does not grant to purchaser any license or other right to any non-public, confidential or proprietary information of Nautilus, nor to any other intellectual property of Nautilus including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, trade dress, trademarks, service marks, or other intellectual property. Title to, ownership of, and all applicable rights in, non-public, confidential or proprietary information of Nautilus and intellectual property of Nautilus shall at all times remain in Nautilus and shall not at any time be transferred or assigned to purchaser. Purchaser covenants not to reverse engineer or reproduce Nautilus products, combine Nautilus products with other goods for sale or distribution, or produce, sell, distribute, or market goods competitive with Nautilus. Purchaser shall indemnify and hold harmless Nautilus for all losses or damages, including attorneys' fees, incurred by Nautilus as a result of violation of this paragraph.

29. Acceptance of Terms and Conditions of Sale. Nautilus performance is conditioned upon purchaser's assent to the Nautilus Terms and Conditions. Nautilus hereby gives notice of its objection to any additional or different terms or conditions contained in any purchaser acceptance, purchase order, acknowledgment, or other document.